

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 UNITED STATES OF AMERICA,)

4 Plaintiff,)

5 v.)

6 PIROUZ SEDAGHATY, et al.,)

7 Defendants.)

) No. 05-60008-2-HO

) September 8, 2010

) Eugene, Oregon

8
9 TRANSCRIPT OF TRIAL PROCEEDINGS

10 BEFORE THE HONORABLE MICHAEL R. HOGAN

11 UNITED STATES DISTRICT COURT JUDGE, AND A JURY

12 DAY 7 - PAGES 1 - 194

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<u>FOR THE DEFENDANT:</u>	<u>Direct</u>	<u>Cross</u>	<u>ReD</u>	<u>ReX</u>
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1 (Wednesday, September 8, 2010; 7:55 a.m.)

2 (The following proceedings were had in chambers
3 outside the presence of the jury.)

4 (Defendant is present.)

5 (Colleen Anderson is present.)

6 P R O C E E D I N G S

7 THE COURT: On Exhibits 634, 637, and 641, this
8 says the government stipulates as to foundation. Do you
9 object to the exhibits?

10 MR. CARDANI: Can you give us a minute to catch
11 up, Judge.

12 THE COURT: Yes.

13 MR. CARDANI: We've been working hard.

14 THE COURT: I am sure I slept more than you
15 folks last night, and it wasn't much. Here, it doesn't
16 say there is agreement. It says you stipulate to
17 foundation, so I don't know what that means.

18 MR. GORDER: Well, the problem is when we first
19 went over these, they didn't have the e-mail that these
20 things were attached to, but they do now, so we have no
21 objection.

22 THE COURT: Okay. Those three are received.
23 755.7, this is the one you've added the page
24 to?

25 MS. SWEET: Yes, we resubmitted the front page.

1 THE COURT: It's received.

2 MS. SWEET: Thank you.

3 THE COURT: 990.

4 MR. WAX: Sorry, Judge, thank you.

5 MR. CARDANI: There is actually an Exhibit 990?

6 THE COURT: "Islam Is."

7 MR. CARDANI: It's unfortunate, we heard that.

8 THE COURT: Yes, there is Exhibit 990.

9 MR. CARDANI: This is just rank, self-serving
10 hearsay. And if the defendant is not testifying, how is
11 it that this is --

12 MR. WAX: It's a book. You've introduced
13 several books. And this is another book that they sent
14 out.

15 MS. SWEET: And several witnesses have
16 testified about seeing it.

17 THE COURT: I'm familiar with it. It's not
18 received.

19 755.9 through 755.12, I don't have my exhibits
20 with me so you have to tell me, please.

21 MR. WAX: E-mail from Wilcox to Seda, the
22 attached QuickBooks file, another e-mail from Seda to
23 Shoumar with the attached QuickBooks file.

24 MR. CARDANI: We'll stipulate to those.

25 THE COURT: Those are received.

1 1238, excerpt of Wilcox's working papers
2 presented. What page is that, Mr. Matasar?

3 MR. MATASAR: Wasn't that admitted?

4 MS. SWEET: Those were the pages you referred
5 to on cross.

6 MR. MATASAR: Oh, yeah, yeah, yeah. I think we
7 agreed that those would come in.

8 MR. CARDANI: We don't object.

9 THE COURT: It's received.

10 1238-A through E, Wilcox working papers used in
11 Jeff Cone's testimony.

12 MR. CARDANI: No objection.

13 THE COURT: Received.

14 1064, demonstrative exhibits, that's received
15 but only for demonstrative purposes. It will not go to
16 the jury.

17 MR. MATASAR: And 1065, I think, was
18 admitted -- was received yesterday.

19 MS. SWEET: Yeah, this was filed before
20 yesterday.

21 MR. MATASAR: No, I understand.

22 MR. WAX: 1065 is received.

23 THE COURT: It's been received.

24 MS. SWEET: It has been received.

25 THE COURT: 1016.

1 MR. WAX: That is another check, I think, in
2 the -- another one of the checks from the bank records.
3 It's similar to 1004 to 1015.

4 MR. CARDANI: No objection.

5 THE COURT: Received.

6 1054 through 1063 are these letters to
7 al-Haramain from various clergy.

8 MS. SWEET: And David Rodgers reviewed those
9 yesterday.

10 (Discussion held off the record.)

11 MR. GORDER: The problem I have with these,
12 Your Honor, is Mr. Rodgers indicated that he left in
13 August of 1999, I think all of these are dated after
14 that. So he couldn't really authenticate them.

15 THE COURT: Anything else?

16 MR. WAX: Both he and Gartenstein-Ross said
17 that they are -- I mean, Gartenstein-Ross recalled the
18 chaplain letters, and Mr. Rodgers said these are similar
19 to letters that he recalled.

20 THE COURT: They clearly got letters from
21 chaplains, but these letters are not received.

22 Exhibit 680, Kosovo refugee families in San
23 Diego.

24 MR. WAX: 680 and 680A are more of the
25 documents from al-Haramain.

1 THE COURT: Well, one of them is Kosovo and one
2 of them is Albania.

3 MR. GORDER: 680, Your Honor, nobody has
4 identified it, as, you know, what it is. I would point
5 out that one of the recipients of this e-mail is Anwar
6 Al-Aulaqi, the notorious guy in Yemen who is, you know,
7 subject of, you know, a lot of commentary in the press
8 these days, but I mean there has been no testimony about
9 this.

10 THE COURT: 680A?

11 MR. WAX: 680 is denied?

12 THE COURT: I haven't ruled yet. I want to go
13 over the other.

14 MR. WAX: 680 is what?

15 THE COURT: They are similar.

16 MR. WAX: Well, 680A is -- well, it's from
17 Abdul Qaadir. And Gartenstein-Ross testified about the
18 work in Kosovo through Albania. The government put in
19 the VOA record of the wire transfer from the arborist to
20 Albania and this is just --

21 MR. GORDER: We have no objection to this.

22 THE COURT: 680 is not received. 680A is
23 received.

24 704 through 707C are not received.

25 755.8, QuickBooks audit report emulation.

1 MR. MATASAR: That was, I think, received
2 yesterday.

3 MR. CARDANI: And if not, received.

4 THE COURT: Okay.

5 MR. WAX: Which one was that, I'm sorry?

6 MR. MATASAR: 755.8.

7 THE COURT: So, Deb, both lawyers say it's
8 received, so I'll follow along.

9 MR. CARDANI: I'm sorry, Judge.

10 THE COURT: I'll follow right along there.
11 Exhibits 1002A and B, video compilations.

12 MR. GORDER: Your Honor, there has been no
13 testimony about that.

14 THE COURT: That isn't received. All right.
15 Now, 1201.

16 MR. WAX: This is the series that was shown to
17 Gartenstein-Ross that relate to his work, his time
18 there, et cetera. I think he either identified them
19 or --

20 THE COURT: What is it about?

21 MR. WAX: It's an e-mail regarding relief
22 monies that went out or a request for relief from the
23 western Somalia group.

24 THE COURT: Somalia. And 1201A is Kosovo,
25 right?

1 MR. WAX: Right. And that's what he said came
2 in on April 2nd. That's got the fax stamp on it from
3 April 2nd.

4 1201B was his timesheet, which had an entry on
5 it that he mailed the Kosovo check on that date.

6 1201E is another flier that had come in about
7 Kosovo relief.

8 And 1201F is the check that is his handwriting
9 for Kosovo.

10 THE COURT: Okay. 1201 is not received.

11 1201A, B, E, and F are received. 1210 -- not
12 for their truth, however.

13 1210?

14 MS. SWEET: Daveed agreed that he had seen that
15 e-mail. It was an e-mail between he and Mr. al-But'he.

16 THE COURT: What did it say? I've looked at
17 them all, but there are many books on my desk right now,
18 full of paper.

19 MR. GORDER: I can't remember what this one is
20 about either.

21 THE COURT: I can't imagine anyone is going to
22 argue we didn't have enough paper.

23 MS. SWEET: This is about Soliman coming to
24 Daveed in New York.

25 THE COURT: Oh, yes, that's received.

1 1216.

2 MR. WAX: 1215, I think.

3 THE COURT: 1215.

4 1210 is received, Madam Reporter.

5 MR. MATASAR: UMA Women's Society one.

6 MR. WAX: Yeah, another request for assistance.

7 THE COURT: That is not received.

8 1216.

9 MR. WAX: This is more about the trip --

10 MS. SWEET: Yes.

11 MR. WAX: The al-But'he visit to New York.

12 THE COURT: It's received.

13 Exhibits withdrawn, 676, 677, and 679. They
14 are withdrawn.

15 MR. WAX: Wait. Where are we?

16 MS. SWEET: This is if the receipts could not
17 come in. Did you want to switch those?

18 MR. WAX: I'm trying to remember what they are.
19 Hang on a second.

20 MR. MATASAR: What are the numbers?

21 THE COURT: 676, 677, 679.

22 MR. MATASAR: I have them.

23 MR. WAX: Yeah, yeah, we withdraw those.

24 MR. MATASAR: Yeah.

25 THE COURT: Okay. Then you want to raise again

1 DGR-1A and 2A. What are those?

2 MR. GORDER: Your Honor, there was no testimony
3 about DGR-1A, so we haven't offered that.

4 DGR-2A was some additional pages from the
5 *Islamic Guidelines* that I questioned the rabbi about,
6 and we'd ask that that be admitted.

7 THE COURT: 1A is not received.

8 MR. WAX: And 2A is just so highly inflammatory
9 and prejudicial. The jury has heard it. And I don't
10 see any need to give them this language.

11 MS. SWEET: And they already have one set
12 from -- one excerpt.

13 MR. CARDANI: But several defense witnesses
14 talked at length about how he would never be involved
15 with things like this, they'd be surprised.

16 THE COURT: 2A is received.

17 Do you have any exhibit questions?

18 MR. GORDER: Yes, Your Honor. There are a few
19 exhibits from the defense that there has been no
20 testimony about, which seemed to me should be withdrawn
21 at this point.

22 1024 is the picture of trees.

23 1025A --

24 THE COURT: It's withdrawn.

25 MR. WAX: Wait, let me make sure I get my list

1 here.

2 THE COURT: Now you're going to remind me of *My*
3 *Cousin Vinny* again.

4 MR. CARDANI: Exactly.

5 MR. GORDER: There was no --

6 MR. WAX: Yeah, we will withdraw --

7 MR. GORDER: -- cross-examination that good.

8 MR. WAX: -- 1024. We withdraw 1025A. We
9 withdraw 1025B.

10 MR. GORDER: Then 1027, if I recall, was some
11 receipts that a witness Jamal was going to testify
12 about. He's -- those should be withdrawn.

13 MS. ANDERSON: And there is a video.

14 MR. GORDER: And there is some kind of video
15 that he had, 1028.

16 MR. WAX: 1028 was under advisement, so I don't
17 think I have to withdraw that.

18 I will not withdraw 1027. We will await the
19 court's ruling.

20 MR. GORDER: Well, you need to withdraw it
21 because you have received it earlier.

22 THE COURT: That's fine. You can have that.
23 1027, withdrawn.

24 MR. CARDANI: Colleen, what else have you got?
25 She's been great in tracking all this stuff, which has

1 been a very daunting task.

2 THE COURT: It's good to have an accountant
3 around. Off the record.

4 (Discussion held off the record.)

5 THE COURT: Okay. Let's go back on.

6 MR. WAX: 801 was under advisement.

7 MR. GORDER: So I just want to confirm that's
8 not in evidence.

9 THE COURT: What is it?

10 MR. WAX: An e-mail from Pete to Raya saying no
11 mujahideen, please.

12 THE COURT: Okay. Do you have it there?

13 MR. GORDER: Yes.

14 MR. CARDANI: She was going to testify. They
15 brought her over.

16 MR. GORDER: She was going to testify. We know
17 she entered the country last week sometime, but --

18 MR. WAX: Big Brother was watching.

19 MR. GORDER: Exactly.

20 MR. MATASAR: What was on her computer?

21 MR. GORDER: That, I don't know.

22 THE COURT: It's not received.

23 MR. MATASAR: You don't have high enough
24 clearance.

25 MR. CARDANI: Stipulations, have we got to file

1 one now?

2 MS. SWEET: I think -- I mean, we e-mailed back
3 and forth, and I think we're okay.

4 MR. CARDANI: I lost track. Colleen, is this a
5 good-to-go thing on everything?

6 MR. WAX: The last time I saw it, we still had
7 to add one paragraph, but that was three days ago.

8 MS. SWEET: It was about the living -- where he
9 was.

10 MR. WAX: So that's in there now?

11 MS. SWEET: I believe so.

12 MR. CARDANI: I'll sign this.

13 MR. WAX: Judge, while we are on the record,
14 there was -- you had indicated earlier that the closing
15 argument needs to be limited, if I understood you
16 correctly. And that I'm not going to be able to argue
17 that -- I mean, not just that Agent Anderson but that
18 the government did not make the effort to subpoena
19 the -- any other Al Rajhi records. And if I understood
20 correctly, I need to object to that.

21 THE COURT: That's fine. That is my ruling.
22 And I understand you need to object to it, believe me,
23 and I'll make the record. But it won't be in the public
24 record.

25 MR. WAX: Okay. Well, I would request that,

1 because I have a security clearance, if there are issues
2 that you have received from the government of a
3 classified nature that impact on that ruling, that I be
4 permitted to, you know, participate in a discussion
5 about that so that we can make an appropriate argument
6 to you.

7 I mean, I certainly understand that there are
8 certain hoops that the government needs to jump through
9 in terms of using a subpoena power.

10 I -- as you're aware, we have consulted with
11 two former exceedingly high level officials in the U.S.
12 government, and we have discussed with them the methods
13 available to the government for obtaining information,
14 for obtaining classified information, and, you know, the
15 processes. As you heard yesterday, one of them is a
16 State Department official, former.

17 And we are unaware of anything that could have
18 conceivably limited the government's effort to use the
19 subpoena power.

20 If there is an official in the United States
21 government who said we're not going to sign off on you
22 issuing a subpoena for Al Rajhi, that fact, it seems to
23 me, cannot be classified. And if there is an official
24 in the government who said that, the government is one
25 entity, and the jury has a right to know that.

1 If they are attempting to protect some
2 relationship with Saudi Arabia, and that motivates their
3 decision, you know, the jury doesn't need to know that
4 necessarily, if there is something classified in that,
5 but the fact that these prosecutors, representatives of
6 the U.S. government, didn't do something that is clearly
7 within their lawful authority, I mean, that's key to the
8 case. And there is testimony from Agent Anderson.
9 There is testimony from Colonel Lang.

10 The jury has heard that this 9889 bank account
11 exists. And from both Agent Anderson and Colonel Lang,
12 they've heard that it is relevant to this case.

13 THE COURT: Thank you. We're in recess right
14 now.

15 MR. CARDANI: Judge, could I put on the record
16 that we've met for the last hour on jury instructions?

17 THE COURT: Yes.

18 MR. CARDANI: And had a detailed discussion on
19 that subject.

20 THE COURT: You may -- or you have. Now we're
21 in recess.

22 (Recess: 8:18 until 8:34 a.m.)

23 (The following proceedings were continued in
24 chambers.)

25 THE COURT: Sorry to haul you back up. We're

1 going back on the record. Go ahead.

2 MR. GORDER: Your Honor, I've talked it over
3 with Mr. Cardani, we are willing to allow Mr. Wax to
4 argue that the government should have subpoenaed the
5 other bank account records. We hope he doesn't make it
6 personal. And we will respond based on the evidence.

7 THE COURT: All right.

8 MR. WAX: Thank you.

9 THE COURT: You are welcome, everybody.

10 (Recess: 8:35 until 9:24 a.m.)

11 (The following proceedings were held in open
12 court.)

13 THE COURT: Please seat the jury.

14 MR. GORDER: Your Honor, Mr. Cardani will be
15 here momentarily. He's in the restroom.

16 THE COURT: All right. I'm sorry, I should
17 have looked up.

18 (Jury enters the courtroom at 9:25 a.m.
19 Mr. Cardani is present.)

20 THE COURT: Good morning, jury. We have one
21 more witness this morning. Go ahead and call the
22 witness.

23 MR. WAX: Patricia Florin, please. Please
24 raise your right hand.

25 (The witness was sworn.)

1 THE CLERK: Please have a seat. These are the
2 microphones here. There is water if you would like
3 some.

4 THE WITNESS: Okay.

5 THE CLERK: Please state your name and then
6 spell your name for the record.

7 THE WITNESS: Patricia Florin, P-A-T-R-I-C-I-A,
8 Florin, F-L-O-R-I-N.

9 DIRECT EXAMINATION

10 BY MR. WAX:

11 Q. Good morning, Ms. Florin. Could you tell the
12 members of the jury, please, generally where you reside.

13 A. I reside in a rural community in southern
14 Oregon.

15 Q. Near Ashland?

16 A. Yes.

17 Q. Did you live in Ashland a while back?

18 A. I did. I lived there from 1983 until 2004.

19 Q. In the 1990s and early 2000s, were you running
20 a business?

21 A. I was.

22 Q. What business was that?

23 A. It was Florins Flying Fingers Secretarial.

24 Q. And as Florins Flying Fingers Secretarial, did
25 you have the opportunity to do some work for my client,

1 Pete Seda?

2 A. I did.

3 Q. And can you tell the members of the jury,
4 please, for roughly how many years you performed work
5 for him?

6 A. Sporadically for nine years. From 1995 until
7 the final thing I did for Pete, I think, was in 2004.

8 Q. Can you tell the members of the jury, please,
9 generally the nature of the work that you did as Florins
10 Flying Fingers, and what you did generally for Pete
11 Seda.

12 A. It began as work for his arborist business,
13 billings, proposals. I then did work for the Qur'an
14 Foundation, community outreach letters. And then for
15 the al-Haramain Foundation, community outreach letters,
16 and public relations letters, things like that.

17 Q. Did you act solely as a typist or did you also
18 from time to time offer either editorial or substantive
19 thoughts?

20 A. I did offer editorial thoughts to Pete. It was
21 often an exchange that went on. He had something he
22 wanted to say, and we worked on finding the words he
23 needed to say it.

24 Q. I'd like to direct your attention, please, to
25 February of 2000. And ask whether you recall working on

1 any documents related to Chechnya?

2 A. I did.

3 Q. Okay. If we could please show the witness and
4 the jury 698D, which is in evidence. Ms. Florin, if you
5 could please look at this e-mail and tell us whether or
6 not you recognize it?

7 A. I do.

8 Q. And does it, in the text portion, reflect the
9 text of a letter on which you assisted in the typing?

10 A. Yes, it's substantially the same, yes.

11 Q. Just a couple more questions, Ms. Florin, if I
12 may ask in terms of religion, are you a Muslim?

13 A. No, I am not.

14 Q. Have you ever practiced as a Muslim?

15 A. No, I have not.

16 Q. Do you know another person from Ashland named
17 Marla Cates?

18 A. I do.

19 Q. Okay. And are you familiar per chance with her
20 religion?

21 A. No.

22 Q. Do you know if she's a Muslim?

23 A. I don't believe so.

24 MR. WAX: Thank you. I have no further
25 questions.

1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. CARDANI:

4 Q. Ms. Florin, my name is Chris Cardani. We met
5 briefly, I think, yesterday or the day before. A few
6 areas to talk to you about.

7 So you've known Mr. Sedaghaty for quite a long
8 time, nine years working for him?

9 A. Yes.

10 Q. All right. Spent a fair amount of time with
11 him or talking to him?

12 A. I'm not sure what you mean by "fair," but when
13 there was a project, we could sometimes spend an hour or
14 two on the phone.

15 Q. And do you feel you got to know him a little
16 bit over the years?

17 A. A little, yes, yes.

18 Q. Now, have you described him as having -- you
19 having profound differences with him in the concept of
20 the views on Islam?

21 A. Yes.

22 Q. And that was because he was far more, what?
23 Fundamental? Conservative?

24 A. No.

25 Q. Okay. Why don't you explain the profound

1 differences.

2 A. The -- well, that could take all morning, and
3 I'm sure we don't want to do that. But my religious
4 views are outside of the parameters of most of the
5 population around here, so that is where a lot of our
6 differences came in.

7 Q. Okay. What about the views of women, did that
8 bother you?

9 MR. WAX: Your Honor, I object. We did not
10 go --

11 THE COURT: Sustained.

12 MR. WAX: Thank you.

13 BY MR. CARDANI:

14 Q. Now, did you -- you realized at some point that
15 the defendant began an affiliation with al-Haramain?

16 A. Yes.

17 Q. Have you described Mr. Seda's personality as
18 having changed after he began his affiliation with
19 al-Haramain?

20 MR. WAX: Your Honor, we didn't go into
21 anything of this nature.

22 THE COURT: Overruled.

23 THE WITNESS: Could you repeat the question,
24 please?

25 BY MR. CARDANI:

1 Q. Yes. Have you stated that Mr. Sedaghaty's
2 disposition changed after he began his affiliation with
3 al-Haramain?

4 A. His disposition? No. His intensity, perhaps,
5 because he was excited about all the things that he was
6 going to be able to do.

7 Q. And part of that was driven by the fact that he
8 had access to money from Saudi Arabia; is that right?

9 A. I can only assume.

10 Q. Now, is it true that you've never been to
11 Mr. Sedaghaty's residence on Valley View Drive?

12 A. That's true.

13 Q. And then after he moved to the al-Haramain
14 building on 3800, you were never there either -- you
15 were never there either as well?

16 A. That's correct.

17 Q. And based -- Mr. Wax -- Mr. Wax asked you about
18 your being with Mr. Sedaghaty, doing work for him over a
19 nine-year period of time. Were you aware that he was
20 distributing literature to prisoner inmates around the
21 United States?

22 A. He told me they were distributing Qur'ans to
23 prisons.

24 Q. Did he ever show you that literature?

25 A. No.

1 Q. And have you described Mr. Sedaghaty as being
2 an individual who is street-wise and able to
3 compartmentalize his activities?

4 A. I don't recall ever describing him that way,
5 no.

6 Q. Do you remember talking to Dave Carroll, the
7 FBI agent, a couple months ago?

8 A. I do.

9 Q. You didn't tell him that Pete was kind of
10 street-wise and able to segment --

11 A. I thought Mr. Carroll told me that.

12 Q. Did you agree with that?

13 A. A lot of that conversation, I sat and listened.
14 I probably shrugged.

15 Q. Probably what?

16 A. Did this (indicating).

17 Q. Okay. All right. And, finally, is it true
18 that during your affiliation with Mr. Sedaghaty, he
19 never mentioned to you that he got \$150,000 for
20 Chechnya, distribution to Chechnya?

21 A. No, he did not.

22 MR. CARDANI: That's all I have.

23 MR. WAX: Nothing further. Thank you.

24 THE COURT: You may step down. Thank you. Any
25 other evidence?

1 MR. WAX: No, Your Honor. At this time the
2 defense would rest.

3 THE COURT: All right.

4 MR. CARDANI: As does the government.

5 THE COURT: All right. Fine. Members of the
6 jury, you get a quick recess. The Mr. Baker, who you
7 have seen sitting over there, is making a few last-
8 minute changes to the jury instructions. And as soon as
9 they are ready, we'll bring you back in for
10 instructions. Okay? Still too early to talk about the
11 case.

12 (Jury exits the courtroom at 9:35 a.m.)

13 THE COURT: Mr. Cardani.

14 MR. CARDANI: Judge, I have an exhibit I'd like
15 to offer. It is Joint Exhibit Number 1. It's a
16 stipulation of the parties, been signed by both parties,
17 and I would offer it at this time.

18 MR. MATASAR: No objection, Your Honor. I
19 signed it.

20 THE COURT: Received. Anything else?

21 All right. Since we have a few minutes,
22 apparently, Mr. Wax, if you had mid-trial motions, I'm
23 happy to hear them at this time.

24 MR. WAX: Yes, Your Honor. I would move for a
25 judgment of acquittal at this time at the close of the

1 government's case. And I would renew that objection at
2 the close of the defense case, and the close of all the
3 evidence.

4 THE COURT: Thank you. Any argument?

5 MR. CARDANI: Only if the court has questions.

6 THE COURT: Thank you. The motions are denied.

7 What else do we need to clean up, gentlemen?

8 MR. WAX: I believe, Your Honor, that in the
9 written submission, we noted our requests and objections
10 to the instructions. Will it be necessary for us to
11 renew those after you read them or have we covered --

12 THE COURT: Here is what we'll do: I got my
13 little script written out here, and we'll do it. We
14 have had extensive discussions on jury instructions in
15 chambers already. The government has filed a written
16 submission, in fact, more than one with their comments
17 on the draft instructions. Some of the matters there
18 have been addressed to their satisfaction, others
19 perhaps not.

20 After I send the jury out, I will give you both
21 the opportunity to make any additional -- or take any
22 additional exceptions to the instructions you like.
23 That's after they go out.

24 And then after that, we will -- our clerks will
25 get the exhibits together to go to the jury room. I

1 invite you to look over their shoulders. They are going
2 to do the best they can, but if you want -- if you are
3 concerned about it, please look over their shoulders.

4 I'll tell the jury after -- I won't read the
5 verdict form until after argument. And at that point,
6 I'll swear the bailiff, and excuse the alternates. And
7 any objection to that process so far?

8 MR. CARDANI: When you dismiss the alternates,
9 Judge, we would ask that you request they not discuss
10 the case in --

11 THE COURT: Of course.

12 MR. CARDANI: -- case their service is further
13 needed.

14 THE COURT: Of course. And then after that,
15 after the jury goes out, we'll take the exceptions if
16 you have any additional ones. But you can have anything
17 you filed in writing thus far.

18 MR. CARDANI: We submitted a verdict form and
19 we both agree on it now.

20 THE COURT: I have it. So that's great. So
21 we'll just be in recess for a few minutes.

22 I've asked Mr. Baker to bring the instructions
23 down. Each of us will have a chance to quickly read it.
24 If you have something that's significant, we'll address
25 that if we need to. All right?

1 MR. GORDER: Your Honor, I'm going to want to
2 have the same setup that we used for the opening
3 statements. Should we do that now before you read the
4 instructions?

5 THE COURT: Yeah, as long as it doesn't put
6 anything between me and the jury.

7 MR. GORDER: Were you able to see the jury with
8 that screen over there?

9 THE COURT: Yes, but maybe turn -- you can plug
10 it in, but maybe turn it sideways so they can see. I'm
11 going to read the instructions through. I'm going to
12 give them each a written copy. And they will take that
13 with them to the jury room.

14 MR. WAX: Judge, will you give them a
15 five-minute stretch break between Mr. Gorder and my
16 starting?

17 THE COURT: Yes. And for you to move things
18 around if you need to.

19 MR. WAX: Thank you.

20 THE COURT: Absolutely.

21 (Recess: 9:39 until 9:48 a.m. Jury absent.)

22 THE COURT: We'll go on the record.
23 Mr. Cardani, you said something.

24 MR. CARDANI: I have two substantive comments,
25 Judge. First, I'd just like to note my objections

1 that -- I realize the court is giving the new pattern
2 instruction on the conspiracy to defraud, but I think
3 this makes us prove too much based on the *Caldwell* case.
4 I understand the court's consideration on that.

5 THE COURT: Thank you.

6 MR. CARDANI: The second is, the court has now
7 added the defendant's theory of defense. We would just
8 like, on page 17, when you say "second," if you could
9 put "the defense maintains," and the same with the third
10 paragraph, just so it's clear that this is continuing to
11 comment on the defense theory of the case and are not
12 the court's reflections.

13 THE COURT: Where are you suggesting that be
14 added?

15 MR. CARDANI: Page 17 at the top after the word
16 "second," the defense -- I would add the words "the
17 defense maintains," and also again after the word
18 "third," three lines down, "the defense maintains."

19 THE COURT: Mr. Wax.

20 MR. WAX: We think that the way you wrote it is
21 fine.

22 THE COURT: Add the notes, please. We'll go
23 off the record.

24 (Recess: 9:49 until 10:06 a.m.)

25 THE COURT: The court is in session. Please

1 seat the jury.

2 (Jury enters the courtroom at 10:08 a.m.)

3 THE COURT: Members of the jury, I'm going to
4 step down here because this screen is in the way, and I
5 want to be able to see you for this, okay?

6 What you hold in your hands are the court's
7 instructions on the law. And those are your own
8 personal copies. I'm giving them to you now, but you
9 have to agree to not read ahead of me this first time
10 through. After that, you can do with them what you'd
11 like, okay?

12 Members of the jury, now that you have heard
13 all the evidence, it is my duty to instruct you on the
14 law which applies to this case.

15 It is your duty to weigh all the evidence
16 received in the case, and in that process, to decide the
17 facts. It is also your duty to apply the law as I give
18 it to you to those facts, whether you agree with it or
19 not. You must decide the case solely on the evidence
20 and the law, and must not be influenced by any personal
21 likes or dislikes, opinions, prejudices, or sympathy.

22 You must follow all of these instructions and
23 not single out some and ignore others. They are all
24 important. Please do not read into these instructions
25 or into anything I may have said or done any suggestion

1 as to what verdict you should return. That is a matter
2 entirely up to you.

3 The indictment in this case charges the
4 defendant with conspiring to defraud the United States
5 and filing a false tax return. The indictment is not
6 evidence. The defendant has pleaded not guilty to the
7 charges. The defendant is presumed to be innocent
8 unless and until the government proves every element of
9 a charge beyond a reasonable doubt.

10 Proof beyond a reasonable doubt is proof that
11 leaves you firmly convinced that the defendant is
12 guilty. It is not required that the government prove
13 guilt beyond all possible doubt, but the burden is
14 always on the government to prove guilt beyond a
15 reasonable doubt.

16 A reasonable doubt is a doubt based upon reason
17 and common sense and is not based purely on speculation.
18 It may arise from a careful and impartial consideration
19 of all the evidence, or from lack of evidence.

20 If, after a careful and impartial consideration
21 of all the evidence, you are not convinced beyond a
22 reasonable doubt that the defendant is guilty, it is
23 your duty to find the defendant not guilty. On the
24 other hand, if, after a careful and impartial
25 consideration of all the evidence, you are convinced

1 beyond a reasonable doubt that the defendant is guilty,
2 it is your duty to find the defendant guilty.

3 You are here only to determine whether the
4 defendant is guilty or not guilty of the charges in the
5 indictment. The indictment -- I'm sorry, the defendant
6 is not on trial for any conduct or offense not charged
7 in the indictment.

8 A separate crime is charged against the
9 defendant in each count. You must decide each count
10 separately. Your verdict on one count should not
11 control your verdict on any other count.

12 At the beginning of the trial, I described the
13 charge of failure to file a report of international
14 transportation of currency or monetary instruments.

15 For reasons that do not concern you, count 3 of
16 the indictment as it relates to codefendant Soliman
17 al-But'he individually is not before you. Do not
18 speculate about why codefendant Soliman al-But'he is not
19 part of this trial.

20 The defendant is on trial only for the charges
21 of conspiracy to defraud the United States and filing a
22 false tax return. You may consider the evidence only as
23 it relates to those counts.

24 The evidence you are to consider in deciding
25 the facts consists of the sworn testimony of the

1 witnesses, the exhibits received in evidence, and any
2 facts to which the parties have agreed.

3 The parties have agreed to certain facts that
4 have been stated to you. And you should therefore treat
5 these facts as having been proved.

6 In reaching your verdict, you may consider only
7 the testimony and exhibits received in evidence. The
8 following things are not evidence and you may not
9 consider them in deciding what the facts are:

10 First, questions, including hypothetical
11 questions, statements, objections, and arguments by the
12 lawyers are not evidence. The lawyers are not
13 witnesses. Although you must consider a lawyer's
14 question to understand the answers of a witness, the
15 lawyer's questions are not evidence. Similarly, what
16 the lawyers have said in their opening statements, will
17 say in their closing arguments and at other times is
18 intended to help you interpret the evidence, but it is
19 not evidence. If the facts as you remember them differ
20 from the way the lawyers state them, your memory
21 controls.

22 Second, any testimony that I've excluded,
23 stricken, or instructed you to disregard is not
24 evidence. In addition, some evidence was received only
25 for a limited purpose; and where I've instructed you to

1 consider certain evidence in a limited way, you must do
2 so.

3 Third, anything you may have seen or heard when
4 the court was not in session is not evidence. You are
5 to decide the case solely on the evidence received at
6 the trial.

7 Evidence may be direct or circumstantial.
8 Direct evidence is direct proof of a fact such as
9 testimony by a witness about what that witness
10 personally saw or heard or did. Circumstantial evidence
11 is indirect evidence, that is, the proof of one or more
12 facts from which you could find another fact.

13 You are to consider both direct and
14 circumstantial evidence. The law makes no distinction
15 between the weight to be given to either direct or
16 circumstantial evidence. It is for you to decide how
17 much weight to give any evidence. In deciding the
18 facts, you may have to decide which testimony to believe
19 and which testimony not to believe. You may believe
20 everything a witness says, or part of it, or none of it.

21 In considering the testimony of any witness,
22 you may take into account: The witness's opportunity
23 and ability to see, or hear, or know the things
24 testified to;

25 The witness's memory;

1 The witness's manner while testifying;
2 The witness's interest in the outcome of the
3 case;

4 The witness's bias or prejudice;
5 Whether other evidence contradicted the
6 witness's testimony;

7 The reasonableness of the witness's testimony
8 in light of all the evidence; and

9 Any other factors that bear on believability.

10 If a witness knowingly testifies falsely
11 concerning any important or material matter, you may
12 distrust the testimony of such an individual concerning
13 other matters. You may reject all of the testimony of
14 that witness or give it such weight or credibility as
15 you may think it deserves.

16 The weight of the evidence as to a fact does
17 not necessarily depend on the number of witnesses who
18 testify. What is important is how believable the
19 witnesses were, and how much weight you think their
20 testimony deserves.

21 You have heard evidence that the defendant
22 committed other acts not charged here. You may consider
23 this evidence only for its bearing, if any, on the
24 question of the defendant's intent, motive, opportunity,
25 preparation, plan, knowledge, identity, absence of

1 mistake, absence of accident, and for no other purpose.
2 You may not consider this evidence as evidence of guilt
3 of the crime for which the defendant is now on trial.

4 You have heard testimony that the defendant
5 made a statement. It is for you to decide whether the
6 defendant made the statement; or, if so, how much weight
7 to give to it. In making those decisions, you should
8 consider all the evidence about the statement, including
9 the circumstances under which the defendant may have
10 made it.

11 The testimony of a law enforcement officer is
12 to be treated by you in the same manner as that of any
13 other witnesses. All witnesses who appeared in court
14 swore to tell the truth. Law enforcement officers,
15 including FBI or IRS officers, did no more and no less.

16 You have heard testimony from persons who,
17 because of education or experience, were permitted to
18 state their opinions and the reasons for their opinions.

19 Such opinion testimony should be judged like
20 any other testimony. You may accept it or reject it,
21 and give it as much weight as you think it deserves,
22 considering the witness's education and experience, the
23 reasons given for the opinion, and all the other
24 evidence in the case.

25 A defendant in a criminal case has a

1 constitutional right not to testify. No presumption of
2 guilt may be raised, and no inference of any kind may be
3 drawn, from the fact that the defendant did not testify.

4 During the trial, certain charts and summaries
5 were shown to you in order to help explain the evidence
6 in the case. These charts and summaries were not
7 admitted in evidence and will not go into the jury room
8 with you. They are not themselves evidence or proof of
9 any facts. If they do not correctly reflect the facts
10 or figures shown by the evidence in the case, you should
11 disregard them and determine the facts from the
12 underlying evidence.

13 Certain charts and summaries have been admitted
14 in evidence. Charts and summaries are only as good as
15 the underlying supporting material. You should,
16 therefore, give them only such weight as you think the
17 underlying material deserves.

18 The defendant is charged in count 1 of the
19 indictment with conspiring to defraud the United States
20 by obstructing the lawful functions of the former United
21 States Customs Service and the Internal Revenue Service
22 by deceitful or dishonest means, as alleged in the
23 indictment, in violation of Section 371 of Title 18 of
24 the United States Code. In order for the defendant to
25 be found guilty of that charge, the government must

1 prove each of the following elements beyond a reasonable
2 doubt:

3 First, beginning in or about late 1999 and
4 ending in or about October of 2001, there was an
5 agreement between two or more persons to defraud the
6 United States by obstructing the lawful functions of the
7 former United States Customs Service or the Internal
8 Revenue Service by deceitful or dishonest means as
9 charge in the indictment;

10 Second, the defendant became a member of the
11 conspiracy knowing of at least one of its objects and
12 intending to help accomplish it; and

13 Third, one of the members of the conspiracy
14 performed at least one overt act in or after late 1999
15 for the purpose of carrying out the conspiracy, with all
16 of you agreeing on a particular overt act that you find
17 was committed.

18 An agreement to defraud is an agreement to
19 deceive or to cheat, but one who acts on an honest and
20 good faith misunderstanding as to the requirements of
21 the law does not act with an intent to defraud simply
22 because his understanding of the law is wrong or even
23 irrational. Nevertheless, merely disagreeing with the
24 law does not constitute a good faith misunderstanding of
25 the law because all persons have a duty to obey the law

1 whether or not they agree with it.

2 A conspiracy is a kind of criminal partnership,
3 an agreement of two or more persons to commit one or
4 more crimes. The crime of conspiracy is the agreement
5 to do something unlawful; it does not matter whether the
6 crime agreed upon was committed.

7 For a conspiracy to have existed, it is not
8 necessary that the conspirators made a formal agreement
9 or that they agreed on every detail of the conspiracy.
10 It is not enough, however, that they simply met,
11 discussed matters of common interest, acted in similar
12 ways, or perhaps helped one another. You must find that
13 there was a plan to commit at least one of the crimes
14 alleged in the indictment as an object of the conspiracy
15 with all of you agreeing as to the particular crime
16 which the conspirators agreed to commit.

17 One becomes a member of a conspiracy by
18 willfully participating in the unlawful plan with the
19 intent to advance or further some object or purpose of
20 the conspiracy, even though the person does not have
21 full knowledge of all the details of the conspiracy.
22 Furthermore, one who willfully joins an existing
23 conspiracy is as responsible for it as the originators.
24 On the other hand, one who has no knowledge of a
25 conspiracy, but happens to act in a way which furthers

1 some object or purpose of the conspiracy, does not
2 thereby become a conspirator. Similarly, a person does
3 not become a conspirator merely by associating with one
4 or more persons who are conspirators, nor merely by
5 knowing that a conspiracy exists.

6 An overt act does not itself have to be
7 unlawful. A lawful act may be an element of a
8 conspiracy if it was done for the purpose of carrying
9 out the conspiracy. The government is not required to
10 prove that the defendant personally did one of the overt
11 acts.

12 One of the lawful functions of the Internal
13 Revenue Service is to collect information concerning
14 financial transactions of tax exempt organizations.

15 One of the lawful functions of the Department
16 of Homeland Security, Immigration and Customs
17 Enforcement and Border Protection, formerly the United
18 States Customs Service, is to collect information
19 concerning the transportation of currency and monetary
20 instruments leaving and entering the United States.

21 Federal law requires that anyone who transports
22 more than \$10,000 in monetary instruments into or out of
23 the United States must file a report with the Secretary
24 of Treasury.

25 Traveler's checks, in any form, are monetary

1 instruments.

2 As noted above, the indictment charges the
3 defendant with conspiracy to obstruct the lawful
4 functions of the former United States Customs Service in
5 addition to the lawful functions of the Internal Revenue
6 Service. Accordingly, the government must prove, either
7 an agreement to file a false tax return or to fail to
8 report exporting monetary instruments.

9 A person is guilty of the crime of failure to
10 report exporting monetary instruments if the government
11 proves the following elements beyond a reasonable doubt:

12 First, the person knowingly transported more
13 than \$10,000 in traveler's checks from a place in the
14 United States to or through a place outside the United
15 States;

16 Second, the person knew that a report of the
17 amount transported was required to be filed with the
18 Secretary of Treasury; and

19 Third, the person willfully failed to file such
20 report.

21 A person acts willfully for purposes of failure
22 to file -- I'm sorry -- failure to report exporting
23 monetary instruments when he or she has knowledge of the
24 reporting requirement and a purpose to disobey the law
25 requiring reporting.

1 The defendant is charged in count 2 of the
2 indictment with filing a false tax return in violation
3 of Section 7206(1) of Title 6 (sic) of the United States
4 Code. In order for the defendant to be found guilty of
5 that charge, the government must prove each of the
6 following elements beyond a reasonable doubt:

7 First, the defendant made and -- I'm sorry,
8 I'll start over. First, the defendant made and signed a
9 tax return for the year 2000 that he knew contained
10 false or incorrect information, as alleged in the
11 indictment, as to a material matter;

12 Second, the return contained a written
13 declaration that it was being signed subject to the
14 penalties of perjury; and

15 Third, in filing the false tax return, the
16 defendant acted willfully.

17 A matter is material if it had a natural
18 tendency to influence, or was capable of influencing,
19 the decisions or activities of the Internal Revenue
20 Service.

21 In order to prove that the defendant acted
22 willfully, the government must prove beyond a reasonable
23 doubt that the defendant knew federal tax law imposed a
24 duty on him, and the defendant intentionally or
25 voluntarily violated that duty.

1 A defendant who acts on a good faith
2 misunderstanding as to the requirements of the law does
3 not act willfully even if his understanding of the law
4 is wrong or unreasonable. Nevertheless, merely
5 disagreeing with the law does not constitute a good
6 faith misunderstanding of the law because all persons
7 have a duty to obey the law whether or not they agree
8 with it. Thus, in order to prove that the defendant
9 acted willfully, the government must prove beyond a
10 reasonable doubt that the defendant did not have a good
11 faith belief that he was complying with the law.

12 A person who willfully causes an act to be done
13 by another which if directly performed by him would be
14 an offense, is guilty of such offense. In other words,
15 a person is guilty of an offense if he used an innocent
16 pawn to cause an act to be done which, if performed by
17 him, would be unlawful.

18 An act is done knowingly if the defendant is
19 aware of the act and does not act through ignorance,
20 mistake, or accident. You may consider evidence of the
21 defendant's words, acts, or omissions, along with all
22 the other evidence, in deciding whether the defendant
23 acted knowingly.

24 The defendant's theory of defense is:

25 First, the government has not proved beyond a

1 reasonable doubt that the tax return contains any
2 material errors. Neither line 1, contributions, nor
3 line 22, grants and allocations, is understated because
4 the El-Fiki donation need not have been included on the
5 tax return. This is because Dr. El-Fiki donated the
6 \$150,000 as Zakat to al-Haramain Riyadh, and not to
7 al-Haramain Ashland. While line 51a (sic), value of
8 buildings, is overstated, the mistake was made by
9 Mr. Wilcox without defendant's knowledge --

10 MR. MATASAR: I think there is an "and" there.

11 THE COURT: Yeah, that's right. There should
12 have been an "and" there. "And is not material." Thank
13 you, Counsel.

14 Second, the defendant maintains, even if the
15 tax return contained material errors, the errors are not
16 willful because they were made by Mr. Wilcox without the
17 defendant's knowledge of the material error.

18 Third, the defendant -- defense maintains, the
19 government has not proven beyond a reasonable doubt that
20 the defendant and Mr. al-But'he had an agreement to
21 defraud the United States in order to hide the
22 disposition of Dr. El-Fiki's donation.

23 When you begin your deliberations, elect one
24 member of the jury as your presiding juror who will
25 preside over the deliberations and speak for you here in

1 court. You will then discuss the case with your fellow
2 jurors to reach agreement if you can do so. Your
3 verdict, whether guilty or not guilty, must be
4 unanimous.

5 Each of you must decide the case for yourself,
6 but you should do so only after you have considered all
7 the evidence, discussed it fully with the other jurors,
8 and listened to the views of your fellow jurors.

9 Do not be afraid to change your opinion if the
10 discussion persuades you that you should. But do not
11 come to a decision simply because other jurors think it
12 is right.

13 It is important that you attempt to reach a
14 unanimous verdict but, of course, only if each of you
15 can do so after having made your own conscientious
16 decision. Do not change an honest belief about the
17 weight and effect of the evidence simply to reach a
18 verdict.

19 Because you must base your verdict only on the
20 evidence received in the case and on these instructions,
21 I remind you that you must not be exposed to any other
22 information about the case or to the issues it involves.
23 Except for discussing the case with your fellow jurors
24 during your deliberations:

25 Do not communicate with anyone in any way and

1 do not let anyone else communicate with you in any way
2 about the merits of the case or anything to do with it.
3 This includes discussing the case in person, in writing,
4 by phone or electronic means, via e-mail, text
5 messaging, or any Internet chat room, blog, Web site, or
6 other feature. This applies to communicating with your
7 family members, your employer, the media or press, and
8 the people involved in the trial. If you are asked or
9 approached in any way about your jury service or
10 anything about the case, you must respond that you have
11 been ordered not to discuss the matter and to report the
12 contact to the court.

13 Do not read, watch, or listen to any news or
14 media accounts or commentary about the case or anything
15 to do with it; do not do any research, such as
16 consulting dictionaries, searching the Internet, or
17 using other reference materials; and do not make any
18 investigation or in any other way try to learn about the
19 case on your own.

20 Some of you have taken notes during the trial.
21 Whether or not you took notes, you should rely on your
22 memory of what was said. Notes are only to assist your
23 memory. You should not be overly influenced by the
24 notes or those of your fellow jurors.

25 The punishment provided by law for these crimes

1 is for the court to decide. You may not consider
2 punishment in deciding whether the government has proved
3 its case against the defendant beyond a reasonable
4 doubt.

5 A verdict form has been prepared for you.
6 After you have reached unanimous agreement on a verdict,
7 your presiding juror should complete the verdict form
8 according to your deliberations, sign and date it, and
9 advise the clerk that you are ready to return to the
10 courtroom.

11 Well, thank you.

12 We'll have the summation by the government at
13 this time. Mr. Gorder.

14 MR. GORDER: May it please the court, ladies
15 and gentlemen of the jury, counsel, good morning.

16 You just heard the judge instruct you about the
17 government's burden of proving this case beyond a
18 reasonable doubt. And that's a burden that we willingly
19 accept in our system of justice.

20 I want to talk to you today about why the
21 evidence in this case shows that the defendant is guilty
22 beyond a reasonable doubt.

23 Let me give you a couple of tips about how to
24 deliberate that I think will be helpful to you during
25 your deliberations. First, as the judge mentioned in

1 discussing reasonable doubt, there is the concept of
2 common sense.

3 No one expects you to abandon your common sense
4 when you go into the jury room. Look at the evidence in
5 light of the way you understand how people behave. Talk
6 is cheap. So what I suggest that you do is look at what
7 the evidence shows that the defendant did, not what he
8 said, and follow the money in this case.

9 Second, the judge mentioned that you should
10 discuss the evidence with your fellow jurors before
11 deciding the case, and that's very important. Don't
12 just walk in and say "let's take a vote." It's harder
13 to listen to your fellow jurors when you do that.
14 First, go over the evidence in the case.

15 Now, Mr. Cardani when he spoke to you when the
16 trial started said that the evidence would be something
17 like a jigsaw puzzle. And it certainly came in fast and
18 furious. We've been here for a week and a half now, but
19 it did come in pretty quickly. And so what I want to do
20 is go through the significant evidence in the case. And
21 I'll try to remember to give you the exhibit numbers.
22 You'll have the exhibits back in the jury room that will
23 help you reflect on the evidence.

24 The evidence shows that there were two sides to
25 the defendant. At al-Haramain they had a religious test

1 that people would take. And the non-Muslims got the
2 smiling guy with a camel in the Fourth of July parade.
3 But certain Muslims passed the test, and they got the
4 Qur'an with the special Call to Jihad. They got the
5 anti-Semitic junk that was distributed by al-Haramain.
6 And the mujahideen got aid.

7 Conspiracy is simply an agreement -- it doesn't
8 have to be down in writing -- just an informal agreement
9 between people to violate the law. It's kind of like a
10 plan. And in this case, the plan was based on this
11 supposition: The IRS and the Custom Service wouldn't
12 pass the defendant's test, wouldn't pass al-Haramain's
13 test, so the IRS would get a tax return that concealed
14 the funds destined for Chechnya. And the Customs
15 Service would get no report when those funds left the
16 country.

17 Now, different people played different roles.
18 This fella Mr. al-But'he, he was the man that came over
19 here to get the money. And he was the one that was
20 going to take it out of the country without reporting
21 it.

22 The defendant's role was to hide that from the
23 authorities in the United States.

24 There was another person, Mr. Al-Shoumar. He
25 was the accountant for al-Haramain in Saudi Arabia. His

1 role was to stay on top of things and make sure that the
2 concealment happened.

3 Mr. Abdul Qaadir's role was to send out the
4 Sheeshaan information to get people fired up about
5 providing aid to the mujahideen.

6 And it was a plan that was based on lies and
7 concealment and dishonesty and deceit.

8 Now, I want to talk to you, first of all, about
9 what the evidence shows about al-Haramain and the United
10 States. It was run by the defendant. And I have a
11 question? Was this a charity? There was one person in
12 charge. All the witnesses agreed to that. That was the
13 defendant.

14 They had the prisoner books, the prisoner
15 program, and if you passed the test, you would get the
16 Noble Qur'an. And you will recall some of the
17 information that was in that, that special appendix that
18 wasn't really part of the Qur'an, it was the edition
19 inserted "Praise is to Allah who has ordained al-Jihad,
20 the holy fighting in Allah's cause, with the heart, with
21 the hand, weapons, and with the tongue."

22 Mr. Gartenstein-Ross told you 15,000 of those
23 Noble Qur'ans were given -- sent out to prisoners around
24 the country.

25 There was the *Islamic Guidelines* with terrible

1 stuff about Jewish people. "The type of jihad that's an
2 individual duty becomes a must when the enemy of Muslims
3 enters their land like the Jews who settled in
4 Palestine. Every Muslim will be guilty unless he expels
5 the Jews by money or physical fighting." This was a
6 charity?

7 They raised money for the fighters in Kosovo.
8 You heard Mr. Gartenstein talk about that and how he
9 contributed while he was working there.

10 When they went on the Hajj, the pilgrimage to
11 Mecca, Barbara Cabral who testified before you was told
12 that when she got her money back from the Saudi
13 government because they were so well taken care of by
14 al-Haramain, that the defendant went to her and said,
15 can we get that money for the mujahideen in Chechnya?

16 Jewelry sales, or we usually call them garage
17 sales, for the mujahideen were held at the defendant's
18 building in Ashland. This is a charity?

19 The defendant's wife Sofia translated for the
20 Qoqaz Web site, the official Web site of the Islamic
21 Army of the Caucasus. And she translated for their
22 Russian language Web site.

23 And if we could have SW-61, you can see some of
24 those translations. So there was a little program, if
25 you know -- if you work for or know someone who works in

1 a reputable aid organization, inform them that the
2 mujahideen are in urgent need of doctors, medical
3 personnel, and medical supplies.

4 You heard from Mr. Kohlmann that the Qoqaz Web
5 site was the official propaganda Web site of Ibn
6 Khattab's group, the foreign mujahideen in Chechnya.

7 SW-17, please. You can see from the computers
8 in Ashland a communication directly to the Qoqaz Web
9 site, and instructions, Dear sister, the following
10 things should be done in order of priority, and tells
11 how to -- what should be done on the Russian Web site.
12 Keep up the good work, Sister.

13 And SW-29. Don't think the defendant wasn't
14 aware of what his wife was doing. This particular
15 e-mail from his arborist business to somebody, "we are
16 working on Russian Web site. And I would like to ask
17 you if it is okay if we will use your map of Chechnya
18 and disclaimer on our Russian Web site." On our Russian
19 Web site.

20 And then SW-26, you recall Mr. Kohlmann
21 authenticated this as an official communiqué from Ibn
22 Khattab and Shamil Basayev, the leaders of the
23 mujahideen in Chechnya, thanking Sister Ptichka for
24 working on the Russian Web site. That e-mail address
25 that they were using was Ptichka@hotmail.com.

1 I suggest to you, the defendant was -- felt
2 pretty good that day when he saw that.

3 Mr. Rodgers, who testified yesterday, claimed
4 that he would be surprised if this happened. But you
5 know it did. This is a charity?

6 Fund raising videos in the room where the women
7 prayed. One produced by the American Islamic Group
8 founded by a famous guy who fought with the mujahideen
9 in Bosnia and Chechnya, according to Mr. Kohlmann. You
10 recall those videos. One had the little kids with the
11 AK47 shouting "Allah Akbar." Specifically made videos
12 to raise money for the mujahideen.

13 And when the non-Muslims were not around the
14 tent, there was radical stuff going on. "Leave the land
15 of the devils." "The Talmud is the Jews' plan to ruin
16 the world." And the defendant saying, "speak up so the
17 sisters can hear you." "People who leave Islam should
18 be killed." This is a charity?

19 When Mr. Gartenstein answered an inquiry about
20 Islam one day in an e-mail, he was reprimanded by the
21 defendant.

22 MR. WAX: Your Honor, I object.

23 THE COURT: Overruled.

24 MR. GORDER: We have sheikhs in Saudi Arabia
25 who can handle those kinds of questions.

1 With this evidence, ladies and gentlemen, you
2 can only conclude that there was something rotten on the
3 inside of al-Haramain in Ashland, Oregon.

4 Let me turn to Saudi Arabia because you can
5 only conclude there, there was something rotten even on
6 the outside of al-Haramain. We saw some things from
7 al-Haramain's Web site, which if you look at IRS-3,
8 which was the application that Mr. Seda filed to get his
9 tax exempt status here in the United States, was his
10 official Web site address, al-Haramain.org.

11 Let's take a look at EK-1 from the Web site.
12 "The latest news about the jihad in Chechnya." An
13 update on the fighting. How many Russians were killed.
14 Not about the plight of the refugees. This is a
15 charity?

16 EK-4A, this is the fatwa from one of those
17 sheikhs in Saudi Arabia that the defendant told
18 Mr. Gartenstein-Ross about. This fatwa is found or was
19 found on the relief for Chechnya section of the Web
20 site. And what does it tell you? "It is obligatory
21 upon Muslims to pray for their brothers in order to
22 achieve victory." Second, "supply them with weapons and
23 material support." And third, "support them
24 financially."

25 Now, the defendant's experts tried to make a

1 big deal about fatwas, saying, you know, you don't have
2 to follow them. It's not a requirement unless you
3 follow that particular cleric. Here is where your
4 common sense comes into play. You don't put something
5 up on your Web site unless you want people to follow it.
6 This is what al-Haramain in Saudi Arabia was telling the
7 world. This is a charity?

8 Then we had Mr. Abdul Qaadir, the guy down on
9 the lower right. He has his Sheeshaan Web site -- or
10 not Web site, e-mail list, sorry. Sheeshaan means
11 Chechnya in Arabic, we heard. It's an e-mail group.
12 And he made sure the defendant got this fatwa.

13 SW-30. You will be able to take a look at this
14 in the jury room. This is an almost identical
15 translation of Mr. Jibreen's or Sheikh Jibreen's fatwa
16 delivered March 8, 2000, right at the time Soliman
17 al-But'he was flying to the United States to pick up the
18 money.

19 And this Sheeshaan ListServ or e-mail group or
20 whatever you want to call it that Abdul Qaadir was
21 distributing, an employee of al-Haramain, had crazy
22 stuff -- really crazy stuff. SW-27. "How can I train
23 myself for jihad?" sent February 29th, to, among others
24 the computers in Ashland. And we're not talking about
25 some peaceful kind of jihad that you struggle with

1 inside yourself.

2 Military training, physical training, martial
3 arts, firearms training. This was a charity?

4 Let's talk a little bit about Chechnya. What
5 did you learn about Chechnya? Now, Mr. Cardani told you
6 we're not taking sides in that conflict. It was brutal,
7 brutal on both sides. If there is anything you can take
8 from that, it's how blessed we are to live in this
9 country where we're more likely to be killed in an auto
10 accident than in the crossfire of a war. But what did
11 we learn?

12 Well, we learned that Ibn Khattab was the
13 leader of the foreign mujahideen, the Islamic Army of
14 the Caucasus. And they had a training center called a
15 Kavkaz or the Caucasus Institute.

16 You saw Mr. Kohlmann's video that he had
17 obtained from the Internet put out by the Islamic Army
18 of the Caucasus about that training center. It was a
19 boot camp for soldiers.

20 SW-48. And in the defendant's computers, a
21 picture of the front of the camp.

22 EK-6A. Back to al-Haramain in Saudi Arabia's
23 Web site. They bragged about supporting the Caucasus
24 Institute. You learned -- and I mentioned this a little
25 bit earlier -- that the foreign mujahideen and Chechnya

1 had the Qoqaz Web site for propaganda purposes, and how
2 Mr. Abdul Qaadir would just copy things from their Web
3 site and send it out to the Sheeshaan group. And you
4 learned that in the second half of 1999, there had been
5 kind of a truce in Chechnya, when the conflict flared up
6 again when Khattab led a group to invade a neighboring
7 republic, Dagestan. The Russians responded and things
8 got desperate.

9 SW-56. November 1999. Again, Mr. Kohlmann
10 authenticated this as an official interview of Ibn
11 Khattab. And question 6 is very important in this case.
12 "Do you need any support," Mr. Khattab? "What support
13 in particular do you need?" Answer, "the Chechen
14 Republic has been surrounded from all sides. However,
15 the Russian Army is prepared to sell everything for a
16 price. As for previous affairs of the Muslims, one
17 would always find Islamic charities and organizations
18 present. I am sorry to say that there is not a single
19 Islamic charity or organization active inside Chechnya
20 at present." November 1999.

21 Well, al-Haramain came to the rescue. SW-6,
22 page 2, put on their Web site, Chechnya relief fund.
23 You can send your money to the Bank of America in
24 Ashland or to Al Rajhi Bank in Saudi Arabia.

25 Now, back to that question and answer from Ibn

1 Khattab. What did you hear? Well, we had a computer
2 forensic's expert -- if we could have JC-4, page 1,
3 okay, here we go. And you'll have this in evidence. He
4 went through all of the government exhibits that were
5 found in the computers. All of them deleted, by the
6 way. Don't know exactly by whom, but it made it very
7 difficult to find this. He was able to do it. So he
8 found that that question 6 and the answer had been
9 converted by someone into another document, a Word
10 document. And that's what SW-52 is. If we could go to
11 that. So, again, same thing, different form.

12 Then what happened? Now, this is at the time,
13 this is according to Mr. Christianson, the computer guy,
14 and you'll see that on his chart, this document was
15 created January 22, 2000. This is while Mr. El-Fiki,
16 the Egyptian guy, is still in the process of considering
17 whether he'll send money to al-Haramain. SW-11, an
18 e-mail from the defendant. P, you heard that was his
19 e-mail address. To al-But'he. With a title "What
20 support?" He sends to Mr. al-But'he the plea of Ibn
21 Khattab for Islamic charities to support the mujahideen.
22 This is a smoking gun.

23 Now, it's circumstantial evidence. You can't
24 look into anyone's head to know what they were thinking.
25 You can't expect that people close enough to the

1 defendant to know what he was up to, know his secrets,
2 would come in and tell us about that.

3 Now, Mr. Rodgers was here. He was probably
4 somebody close enough, but he had gone to Saudi Arabia
5 by this time.

6 This, by the way, was a pretty good example of
7 an overt act of the conspiracy. An overt act doesn't
8 have to be illegal in itself. This e-mail from the
9 defendant to al-But'he, "what support?" are we giving to
10 Ibn Khattab?

11 Let me shift a little bit and talk about the
12 actual transaction. And there are plenty of other
13 additional overt acts in this. SW-22. The Egyptian
14 gentleman, El-Fiki, decides to make a donation. And
15 this is an e-mail that the defendant got that shows the
16 money is going to come from Mahmoud Talaat El-Fiki on
17 February 24, 2000.

18 You see at the very top -- you'll be able to
19 see in evidence -- this e-mail was sent from al-Haramain
20 to the defendant. Alerting him, the money is coming.

21 Then SW-23, this is what I call the "be careful
22 e-mail." Al-But'he, the guy in Riyadh, sends the
23 defendant a newspaper article talking about how the
24 government is trying to track down terrorists and the
25 problems they are having in dealing with money diverted

1 to terrorism for improper purposes. And highlighted in
2 red, presumably by Mr. al-But'he, but by somebody, not
3 in the article, is "U.S. officials also said they have
4 discovered through the massive probe that a significant
5 number of Islamic terrorists are concealing their
6 activities and sources of funds by using charitable
7 organizations as fronts. As many of these charities do
8 substantial community service work, investigating them
9 is not easy and can subject the FBI or foreign law
10 enforcement authorities to allegations of targeting
11 religious or ethnic group, sources said."

12 Now, why was this highlighted and sent to
13 Mr. Seda? It was a message from his co-conspirator,
14 Mr. al-But'he, be careful. Conceal the money that's
15 coming.

16 Well, then, BOA-3, and this is on page 2, this
17 is from the Bank of America statement for the bank in
18 Ashland, a wire transfer comes in for \$149,985 from
19 Mr. El-Fiki. That's the \$150,000 minus a simple \$15
20 wire fee.

21 AMX-2. You heard the testimony of Debra
22 Ingram, the lady from the Bank of America, the defendant
23 called her up and ordered \$130,000 in American Express
24 traveler's checks. You'll have those in evidence. Not
25 150 or 149, but 130.

1 Common sense tells you there was some
2 discussion, perhaps over the phone, between
3 Mr. al-But'he and the defendant saying give me the 130,
4 not the 150.

5 March 7, 2000, the checks are shipped to the
6 bank and they receive them on March 9th. They didn't
7 have those kind of checks sitting around the bank.

8 Now, Debra Ingram, the banker, tried to talk
9 the defendant out of doing this. She said, you know, I
10 can get you a cashier's check for ten bucks, or you can
11 wire the money anywhere for 15. These traveler's checks
12 are going to cost you \$1300. Nope. That's the way we
13 want to do it. We're going to pay the \$1300 traveler's
14 check fee. And there is going to be an airfare for
15 Mr. al-But'he to come from Saudi Arabia to get them. I
16 don't know how much exactly that was, but it's probably
17 a couple thousand dollars, for a five-day trip.

18 And Mr. al-But'he arrives on March 7th. If you
19 look at ICE CBP-1, this is the printout of his entry and
20 departure from the United States. He arrived on March 7
21 in New York City, and he left on March 12th. He was
22 there five days to pick up the money.

23 The next day -- or excuse me, on March 10th,
24 the day after the checks arrive, BOA-7, please, the
25 defendant and Mr. al-But'he go to the bank.

1 Mr. al-But'he signs this check for \$131,300. He was one
2 of the two signers on the account, along with the
3 defendant. And you heard the testimony of Debra Ingram,
4 the defendant, al-But'he are there, and al-But'he has to
5 sit there and sign these things 130 times.

6 The next day -- and this is BOA-8 and 9 -- the
7 defendant comes back, writes another check for \$21,000
8 to the bank, and gets a cashier's check made payable,
9 not al-Haramain, but to Soliman al-But'he for \$21,000.

10 Then ICE FinCEN-1, al-But'he leaves the
11 country, March 12th. Here is the CMIR form, which says
12 it's for individuals departing from or entering the
13 United States. And you can see the chart that we have
14 for Mr. al-But'he. Had filed nine of these at various
15 times in his career. He didn't file one that day when
16 he was taking Mr. El-Fiki's money out of the country.

17 Now, you also heard the testimony that 73
18 people that month in March of 2000 left the country from
19 JFK International Airport and did fill these forms out
20 for over \$6 million, but not Mr. al-But'he.

21 The defendant, he's traveled internationally,
22 too. He's aware of these rules. Went to the Hajj in
23 Saudi Arabia. You heard he -- from the rabbi that he
24 went to Israel. And he's from a part of the world where
25 the defendant's own experts tell you they like to carry

1 cash.

2 Then what happens? Well, Mr. al-But'he goes
3 back to Saudi Arabia, and he cashes the checks. And
4 this ALR-1A. You see he cashed the 130,000 American
5 Express traveler's checks, and he got 486,850 Saudi
6 riyals in cash. And that's gone. Trail dries up.

7 Now, he also takes that cashier's check made
8 payable to him for \$21,000 -- and this is on ALR-1A, the
9 translation for pages 4 and 5. And it's a little faint,
10 but you'll be able to see it in the jury room. Here is
11 the \$21,000 Bank of America traveler's check. Here is
12 the rate between Saudi riyals and the dollar. And it
13 turns into 78,729 riyals. And the credit is April 8th
14 of 2000.

15 Next exhibit, please. And here is the deposit
16 into Mr. al-But'he's personal bank account at the bank
17 for the 78,729 riyals, April 8.

18 And then as Agent Anderson explained -- if we
19 could have the next exhibit -- you can see that the
20 money in his account was spent over the next period.
21 There's nothing that indicates it's going to Chechnya.
22 Nothing that indicates it's going to the Saudi Joint
23 Relief Committee. Nothing that indicates that it's
24 going to al-Haramain. Looks like it's spent for normal
25 personal expenses.

1 Now, somebody might call that \$21,000 a
2 commission that Mr. al-But'he extracted for his trip to
3 the United States. Some people might call it a
4 kickback. But what I don't call it is Zakat that is
5 very strictly controlled and treated as sacred in Saudi
6 Arabia.

7 This is where your common sense comes into play
8 again. Why -- this whole series of events, the guy
9 flying over, the \$1300 traveler's checks fee, when all
10 they needed to do was wire transfer the money to Saudi
11 Arabia for 15 bucks, why do something that weird? Well,
12 people do things weird when they are trying to conceal
13 what they are up to. That's where your common sense
14 comes into play.

15 Now, let's switch to Springfield and the
16 purchase of the mosque, Springfield, Missouri. Here's
17 one of the interesting things about this case, there
18 were two significant financial transactions in 2000 that
19 al-Haramain U.S.A. engaged in. One was this El-Fiki
20 deal and the other was the purchase of the mosque in
21 Springfield, Missouri. And both of those events are
22 misrepresented on the tax return. What happened?

23 al-Haramain decided to buy another mosque in
24 Springfield, Missouri. They hired Mr. Kanan, the lawyer
25 you heard from. And if we could see RDK-2, page 4, it

1 took a while, but on June 21st, he has his -- his
2 secretary has a telephone call from Pete. "The funds
3 will not be transferred until Wednesday or Thursday of
4 next week." So who's in the middle of this transaction?
5 The defendant.

6 Then BOA-10 to 17. On the 23rd, two days
7 later, the defendant goes to the bank, he signs a check
8 for \$318,000 and change. And it's turned into a
9 cashier's check to First Escrow in Springfield,
10 Missouri.

11 RDK-2, this is on page 6, there is another
12 note, "telephone call from Pete in Oregon, he Fed Exed
13 money to First Escrow for a June 24 delivery." So the
14 defendant, again, right in the middle of this
15 transaction.

16 RDK-2, page 1, on June 26th, phone call to
17 Soliman and Pete, after closing, it's okay, five to
18 six weeks to get the documents.

19 And then when you take a look at RDK-1 in the
20 exhibits, these are the documents that Mr. Kanan sent.
21 And they have the purchase price for the mosque,
22 \$375,000. And they reflected the \$318,000 cashier's
23 check that the defendant sent.

24 Defendant told the FBI even on September 15,
25 2010, right while the return was being prepared, that

1 they had a mosque in Springfield. And he said it was
2 purchased for about 300 to 325. Just framing this check
3 pretty well, the \$318,000. So he knew what was going on
4 with that mosque. He knew the costs. And he knew where
5 the money came from.

6 Let's talk about the tax return. This is
7 IRS-1. Now, I want to spend a little time talking about
8 line 1a, that's one of the lines that is alleged to be
9 false, direct public support, \$561,640. Line 22,
10 24,534.

11 The statement of program services, which is on
12 another page, and you will see there, there is nothing
13 about Chechnya or relief for Chechnya or anything of the
14 kind.

15 The listed officers, which includes both
16 Mr. al-But'he, the treasurer, and the defendant as
17 secretary. And line 57a.

18 Now, let's talk about line -- oh, okay, sorry,
19 little bit more. Later on, Schedule A, question 2,
20 during the year has the organization either directly or
21 indirectly engaged in any of the following acts with any
22 of its, among other things, directors and officers.

23 D, payment of compensation or reimbursement of
24 expenses if more than \$1,000, and the box is checked no.
25 Doesn't reflect the \$21,000 that went to Mr. al-But'he.

1 And it's signed on October 16th under penalty
2 of perjury by the defendant.

3 Now, let's go through this just a little bit
4 more. You've heard that on line 1 the \$561,640 figure
5 does not include the \$21,000 check. Because Mr. Wilcox
6 was told it was returned to Mr. Soliman, the donor.

7 Line 22, the \$22,534, allegedly the total of
8 distributions that year, does not have the \$130,000, at
9 least, of Mr. El-Fiki's money that left the country.

10 The statement of program services, no reference
11 to Chechnya. The biggest thing, aside from purchasing
12 the mosque that the charity did that year, it's not on
13 there.

14 Line 57a, this is another one where the
15 defendant is charged with a false statement. 685,643 is
16 the value of the property. That includes the
17 Springfield mosque. And it includes the \$131,300 that
18 were used to buy the traveler's checks that were not
19 used to buy the mosque. And then the Schedule 2A, the
20 list of officers. Al-But'he got zero, apparently.

21 Now, let me talk a little bit about Mr. Wilcox.
22 You heard the judge instruct you that if you use an
23 innocent pawn to do an act which would be unlawful if
24 you did it, you can be found guilty. And that's the
25 theory here. That by telling Mr. Wilcox false

1 information, it got onto the return that he prepared,
2 and the defendant signed it under perjury, and he's
3 guilty.

4 Now, we'll concede that Mr. Wilcox is not the
5 best accountant in the world. But his initial
6 engagement only envisioned that he'd be working on this
7 case for a few hours to do the 990 returns. And it
8 turned out to be a heck of a lot more.

9 Now, how many hours did the defendant's experts
10 here who testified pour over Mr. Wilcox's file? Well,
11 we heard yesterday that Mr. Cone spent 300 hours before
12 he even came to court at \$150 an hour. And there was
13 some other accountant working on it. And they went
14 through and nitpicked it pretty good.

15 They found a \$50 horse shoeing fee that was
16 listed as attorney's fees. Now, unless the attorney was
17 Mr. Ed, that wasn't appropriate. But Mr. Sedaghaty is
18 not charged with lying about his attorney's fees.

19 Mr. Wilcox admitted he made some mistakes. He
20 admitted them to you and he didn't deny them. It's your
21 job to decide if he was honest about two things, because
22 there is two things that are critical about Mr. Wilcox's
23 testimony.

24 One, what was he told about the purpose of the
25 \$21,000 check that went to Mr. al-But'he? Was he told

1 that it was a distribution to Chechnya or not? And what
2 was he told about the purpose of the \$131,000 check that
3 was used to buy the traveler's checks? It's not
4 important when he was told or where he was told or
5 whether it was on the phone or in his office. The real
6 question is who told him that? Did the defendant tell
7 him that?

8 And in considering that, remember what you
9 heard from both sides, a CPA has to rely on what his
10 client tells him.

11 TW-1, this is from Mr. Wilcox's file. He's
12 always been consistent that when he saw this \$21,000
13 check in an inappropriate account, that he questioned
14 the defendant, and was told it was returned to the
15 donor, and that's why he took it out of the list of
16 contributions. Always been consistent about that.

17 TW-2, this is his work papers that he produced
18 for the Springfield building. And he's always been
19 consistent that he was told this \$131,300 check went
20 into the Springfield mosque purchase. That's the
21 critical evidence.

22 Now, whether it came from the QuickBooks file
23 received from the defendant or from a phone conversation
24 means fairly little. He was never told about buying any
25 traveler's checks. That might have helped him. The

1 defendant refused to give him the escrow statement that
2 he asked for. And you heard the defendant's own
3 accountant, Mr. Cone, say he would have asked for it
4 too. Because then he would have seen that these numbers
5 just didn't add up when the thing only cost 375,000,
6 could have started asking questions.

7 In considering this, remember that the
8 defendant never mentioned Chechnya to Mr. Wilcox. And
9 remember that the defendant lied to Mr. Wilcox before
10 about BOA-6.

11 Now, you remember Daveed Gartenstein-Ross, this
12 was his first paycheck for \$2060. And it's
13 inappropriately dated. It says January 25, 1998. But
14 Mr. Gartenstein told you he worked there in January of
15 1999. He started in December of '98, and he ran through
16 August of '99. You know, I'm sure you've done it, I've
17 done it, early in the year, you sometimes forget that
18 it's now 1999, and you write down 1998. So this was a
19 1999 check.

20 The defendant told Mr. Wilcox that this was for
21 the purchase of a computer. And he told Mr. Gartenstein
22 this is how we're going to keep your salary off the
23 books so you don't have to pay taxes. You might have to
24 testify someday you really sold me a computer. Paid
25 Mr. Rodgers under the table also. But it was a 1999

1 check.

2 Now, while he was testifying, Mr. Wilcox was
3 confronted on the stand, you didn't put this computer
4 purchase in your 1998 records, did you? And Mr. Wilcox
5 got a little befuddled and said, no, I didn't put it in
6 1998 records. But it was, as you saw, right in the
7 middle of the 1999 reports. And they had an accountant
8 who went through these things for 300 hours, and it was
9 right where it should be.

10 Now, Mr. Wilcox may have been a little nervous
11 on the stand. He may have been befuddled a little bit
12 at this point. But don't you be befuddled in the jury
13 room. And if it's all Wilcox's fault, why do we have
14 AHIF-2 and 3, these receipts from al-Haramain for
15 186,000 or 188,000, but not for 131,000 or 150,000? By
16 the way, these receipts are not in the computers at
17 Ashland.

18 Who had a motive to conceal this transaction?
19 Wilcox or the defendant? Mr. Wilcox didn't have the
20 conversation with al-But'he about the bombings of our
21 embassies in Africa and the allegation that al-Haramain
22 was somehow involved in that. Mr. Wilcox wasn't told,
23 well, we can't be -- we can't be responsible for what
24 our volunteers might do. That was the defendant back at
25 the time that Mr. Gartenstein-Ross worked there, and he

1 knew there was something wrong with al-Haramain.

2 Now, what's the defense? Well, Mr. Wilcox made
3 me do it. I've talked enough about that. So let me
4 move on. We had two supposed experts on Saudi Arabia
5 and the Arab world. Now, maybe they spent a lot of time
6 over there, but they both have been out of government
7 since the early 1990s. And they are hardly experts on
8 Islamic charities in the year 2000 and the problems with
9 diversions. And they contradicted each other.

10 First we had Dr. Long, yesterday, Zakat has got
11 to be used for humanitarian aid. It's like magic in
12 Saudi Arabia because it's part of the religion and it's
13 part of the culture, and the Saudi Joint Relief
14 Committee would have been all over it. Well, ladies and
15 gentlemen, common sense, you know, people in Saudi
16 Arabia are human beings, too. They are not perfect.
17 You know the Ten Commandments, thou shall not steal, but
18 you've heard of pastors who have run off with the church
19 funds. Catholic Church priests are supposed to be
20 celebrate. You've heard of child abuse. Thou shall not
21 commit adultery. Doesn't mean a rabbi at some point
22 might run off with someone's wife. But you know also
23 that al-Haramain thought differently about Zakat.

24 And as from EK-5A, this was another one of the
25 fatwas, this is on their Web site. And it says "giving

1 Sadaqah and Zakat to the Muslims in the Land of the
2 Caucasus, specifically in Chechnya, is permissible. The
3 Zakat would be given to the mujahideen and the poor,
4 while Sadaqah is of a wider scope."

5 And Dr. Long said he wouldn't change his
6 opinion even if he learned that Osama bin Laden's best
7 friend was the person in charge of the Saudi Joint
8 Relief Committee, as Mr. Kohlmann told you. I think you
9 can discount his analysis of what happens in Saudi
10 Arabia.

11 Then we had Mr. Lang, he was the opposite.
12 Once the money leaves the country, it's impossible to
13 control it. And perhaps the most incredulous testimony
14 in this entire trial, "the mujahideen have to eat, too.
15 When you deal with a Muslim rebel organization," he
16 said, "all life is a seamless garment." In other words,
17 once it gets to the mujahideen, weapons, food, whatever.

18 Then we have Mr. Owens, he testified yesterday.
19 He was the former head of the tax exempt folks at the
20 IRS. He's a lawyer, not an accountant. And he works --
21 he's worked in Washington, D.C. all his life. He never
22 actually even did an audit of a tax return for a
23 charity. But he comes in here to convince you that the
24 auditors wouldn't care about the falsities in
25 al-Haramain's tax return.

1 Now, this is a little like calling the
2 Secretary of Defense to testify about the best way to
3 feed the sailors on an aircraft carrier. I'd rather
4 hear from somebody who worked in the ship's galley as to
5 how it's really done, somebody like Mr. Wooten who you
6 heard from earlier.

7 Right out of the box, Mr. Owens goes, hey, that
8 150,000, that shouldn't be on the return because it's
9 a -- really belonged to al-Haramain Saudi Arabia, and
10 al-Haramain U.S.A. was just a conduit. But then he went
11 quickly downhill as far as the defense goes. He talked
12 about, well, there is an agreement between al-Haramain
13 U.S.A. and the conduit -- and al-Haramain Saudi Arabia,
14 excuse me. Well, where is that agreement? We never saw
15 it.

16 Look at what the defendant did. Exhibit 69-B
17 (sic). This is a defense exhibit. This is a letter --
18 I believe it's in early March. It's to Brother Enaam.
19 And it says "we have a contribution of \$200,000. And I
20 want to buy some food." Now, does that sound like he's
21 just a conduit? He's got nothing to do with this?
22 Where should I originally purchase these materials?
23 That's what the defendant was saying. And just -- here
24 is that guy again, Jazak Allah Khair.

25 698D, this is another -- this is the one we

1 just heard about from Patricia Florin that she typed up.
2 "My organization is prepared to aid the people of
3 Chechnya with a sizable humanitarian donation. We also
4 require that one of our representatives travel to
5 Ingushetiya." This was sent by the defendant to
6 Patricia Florin to type up. So the defendant was acting
7 like it was money he could spend.

8 And Mr. Khan, the guy we heard from yesterday
9 that ran Islamic Relief, now, he showed you how it's
10 supposed to be done. He gets a call from somebody from
11 al-Haramain Oregon, we've got \$200,000, he takes the
12 call, but we gotta have our guys go. We gotta go. He
13 says, no, we don't do it that way. And he never heard
14 back from them.

15 The only agreement we have is AHIF-2 and 3
16 again. And Mr. Owens told you that these things are so
17 phony looking that it would raise more questions with
18 his auditors, not less.

19 Now, Mr. Wooten, a guy who's actually gone out
20 into the field and done this work, told you that what he
21 would be looking for is evidence that the local
22 organization exercised some control over the fund.
23 Evidence like those exhibits I just showed you where "we
24 have the money," "I want to purchase," and the funds
25 would have to be reported on the return.

1 Then we had Mr. Owens' speeches, "990s are
2 important documents. You must be forthcoming." Even a
3 small problem that's identified on a return can lead to
4 bigger things that need to be investigated, under the
5 rock, I think is what he said, or perhaps could lead to
6 something like a Kavkaz boot camp in Chechnya.

7 We need to have more scrutiny in foreign
8 contributions or foreign transactions, money leaving
9 from the United States overseas, he said that was
10 important. He said one of the IRS's jobs was to detect
11 money laundering. And how would you detect it if it was
12 going through a 501(c)(3) organization if it's not on
13 the return? He tried to minimize the inflated value of
14 the mosque in Springfield, Missouri, by saying, well,
15 it's just kind of a trivial deal. But on
16 cross-examination he admitted, well, if you are
17 concealing overseas transactions in the value of a
18 building, that would be important.

19 And he said whether a foreign transaction was
20 to buy bombs or to buy blankets, it should be reported
21 on the Form 990, which it was not in this case.

22 And most importantly, he testified, if you go
23 ahead and choose to report something, even if you don't
24 have to, you can't lie about it.

25 So when he left the stand, you knew that his

1 auditors would expect the \$150,000 to be reflected on
2 that return accurately. The only conduit in this case
3 was the conduit to the mujahideen in Chechnya.

4 Finally, we had some witnesses that said that
5 the defendant was a nice guy. He was a man of peace.
6 And let me just talk about one of those. This is
7 Exhibit 602B, Mr. Rodgers testified about this
8 yesterday. This was the mission statement that they put
9 together when al-Haramain took over the Qur'an
10 Foundation. "We mutually agree to never support or
11 approve any statements or acts of terrorism." That's
12 kind of an unusual thing to put in your mission
13 statement. This is before 9/11. And it's very similar
14 to some of the disclaimers you saw from the Qoqaz and
15 Azzam Web sites that were putting all the propaganda for
16 the mujahideen, like how to train for jihad, but, of
17 course, that's for information purposes only, and we're
18 not encouraging anybody to actually go.

19 Let me talk about one last thing. And he
20 didn't get a lot attention during the witnesses, but
21 that's Mr. Abdulaziz Al-Shoumar. I suggest to you he's
22 another conspirator in this case. Now, he was the
23 accountant or bookkeeper from Riyadh. He comes into the
24 picture SW-21. Again, an e-mail in the defendant's
25 computers. February 19, 2000. "Dear brothers, Abo

1 Yonos" -- that's Abu Yunus, the defendant, and Bilal,
2 somebody else -- "two months back I was given the
3 responsibility to handle the U.S.A. Dawah group
4 activities. It is a heavy burden on my shoulders. And
5 I ask Allah to help all stand firm in carrying out the
6 responsibilities." So then he says, "Brother Abo Yonos,
7 please use the Quicken software to record all the
8 transactions starting with February 2000. The software
9 will save a lot of effort and organize all the financial
10 aspects. In addition, it will give you multi reports."
11 So he's a numbers guy.

12 Now, this is just -- remember, this is just at
13 the time that El-Fiki is getting ready to send his money
14 to the United States, February 19, 2000. All of a
15 sudden Mr. Shoumar is on the scene. Wilcox never knew
16 about it.

17 It's kind of unusual. Your CPA here in Oregon
18 doesn't know about the accountant in Riyadh.

19 SW-32, this is a report -- this is part of an
20 e-mail that was sent by the defendant to Mr. Al-Shoumar.
21 And on page 4, he has the monthly summary report for
22 March of 2000. This is when the \$150,000 was taken out
23 of the bank in traveler's checks and a cashier's check.
24 He's got the expenses for the month and that sort of
25 thing. And then down here at the bottom, to Brother

1 Soliman, 21,000, to Brother Soliman, 131,300 are not
2 included for the total balance. Nothing about Chechnya.
3 Nothing about Chechnya refugees.

4 If you are trying to hide something, you might
5 not want to put it in an e-mail. Though it's Brother
6 Soliman.

7 Then SW-43. Now, this is a very long exhibit.
8 You'll have it in the jury room. You have to kind of
9 start from the bottom and work your way up. And this
10 is -- there is an attachment to the e-mail, an Excel
11 spreadsheet, not a QuickBooks file like Mr. Wilcox got.
12 This is a different one. An Excel spreadsheet. And
13 about page 20 of that spreadsheet you see, again, the
14 131,300 and the \$21,000, and it says Soliman's check.

15 Now -- and this, again, never given to
16 Mr. Wilcox. Then SW-43, page 2, again, like I say, you
17 need to kind of read this from the bottom up. On
18 August 29, 2001, Mr. Shoumar e-mails the defendant, and
19 he sends a copy to al-But'he. Brother Abu Yunus, the
20 highlighted items require more clarification. He goes
21 through and he asks a bunch of questions about different
22 expenses. And then he has a special footnote. "Brother
23 Soliman, I would appreciate that you send all the
24 amounts that has nothing to do with the Foundation
25 business to another account. Adding this amount to the

1 deposits and expense sheets in the al-Haramain account
2 would give us the wrong view about the actual situation.
3 So he's saying, you know, get these things off the
4 books. That's because Shoumar knows this is no
5 humanitarian deal. We've got to conceal it.

6 And then the very beginning of the e-mail, and
7 this comes -- well, this -- before we get to the
8 beginning, just before -- Saturday, September 8th, Al-
9 Shoumar sends another one to the defendant saying,
10 "Brother, I am still waiting for your reply." So he's
11 not getting the information that he wants. Okay. And
12 then the next slide. And this is the very top of the
13 e-mail. Again, this is Abdulaziz Shoumar to Mr. Abu
14 Yunus, the defendant, with a copy to al-But'he,
15 Saturday, September 29, 2001. Now, this is after 9/11.
16 "I have tried during the past two years to" -- says may,
17 but probably means my -- "best limited ability to
18 organize the work and make sure that we get work
19 together to be precise as much as we can to avoid any
20 possible trails from anybody." And he chides him again.
21 "You record some expenses that does not belong to
22 al-Haramain, such as the Soliman mobile expenses." Get
23 al-But'he's things off the books, please, to avoid any
24 possible trails. That's another smoking gun, ladies and
25 gentlemen. Al-Shoumar was another conspirator. Avoid

1 any possible trails.

2 Three weeks later, the defendant signed the
3 return. And on that return, there were no trails
4 because he had told Mr. Wilcox false information. He
5 took al-Haramain Saudi Arabia's money. People noticed a
6 change when al-Haramain came in. And talk was cheap,
7 but look at what he did, not what he said, and follow
8 the money. If you do, you'll return guilty verdicts.
9 Thank you.

10 THE COURT: Members of the jury, I've bought
11 you lunch today. It should be in your room. I think
12 what we'll do is take a break until 12:30 and then
13 continue the arguments. Okay. Still too early to talk
14 about the case. Thank you.

15 (Lunch recess: 11:41 until 12:34 p.m.)

16 THE COURT: Be seated. Mr. Wax, go ahead.

17 MR. WAX: Thank you, Your Honor.

18 Mr. Sedaghaty, his family, defense team, the government,
19 ladies and gentlemen of the jury, I'd like to start by
20 thanking you for your attention during the course of
21 this trial. It has, I'm sure, not been easy at times,
22 as exhibits have been flying in, and some without any
23 explanation.

24 It's my hope this afternoon to provide you a
25 framework that you might consider during your

1 deliberations. And in doing so, I hope to take some of
2 the exhibits that have come in and spend a little time
3 with them.

4 What you'll find when you get back into the
5 jury room and start looking at the exhibits is that the
6 sequence in which you'll find them in the manila folders
7 that the court clerk will provide to you isn't
8 necessarily chronological, and isn't necessarily a
9 grouping that makes sense because of the way in which
10 the lawyers have to put things together. It may be that
11 you'll want to take the exhibits and mix and match them,
12 put them into clusters.

13 And during the course of this statement to you,
14 I'm going to, from time to time, be suggesting some
15 clusters that I think make some sense and might help you
16 make some sense out of what has been presented.

17 Another preface that I want to start with is
18 this: I stand before you this afternoon with some fear,
19 some fear in my heart. I stand before you holding some
20 fear for my client, for Pete Seda. And I stand before
21 you holding some fear for this great country of ours.

22 We know that throughout the 1980s and 1990s,
23 there were a number of terrorist events that affected
24 our nation, that affected our military serving overseas
25 in the Middle East. And, of course, we all remember the

1 events of September 11, 2001. And those events had a
2 profound impact on our nation.

3 They had an impact, I think, on all of us as
4 individuals, and I'm sure in many different ways, but
5 part of that impact, the impact that causes me to have
6 some fear and to want to put this out to you at this
7 time, is that those events, it seems to me, have caused
8 us as a nation at times to react with anger, at times,
9 perhaps, to react out of fear, and at times, perhaps, to
10 react without paying sufficient care to the actions of
11 individual human beings as opposed to a collective them.

12 During the selection process, we heard from a
13 number of the prospective jurors that they had some
14 strong feelings, some strong negative feelings about
15 Islam. You were all selected to serve on this jury
16 because each one of you in that process told us all that
17 you believed that you would be able to sit here and
18 judge this case on its facts, to judge the facts that
19 the government has presented against the individual
20 human being for whom I and the rest of the team are
21 responsible, Pete Seda, the man on trial here.

22 And we are confident that each of you will
23 remember the oath that you took when you were selected
24 as jurors to do just that.

25 Now, I've tried to break down the different

1 subject areas that I'm going to talk about into six
2 general categories. And I know everyone says go in with
3 three, threes are the way to go, six is too many. I
4 tried. There just seem to be a little bit too much. So
5 the six categories that I'm going to talk to you about
6 generally are this: I'm going to start with a little
7 bit of a reference to what are the charges? What must
8 the government prove here in this case?

9 I'm then going to turn to talk about how the
10 case began. And I think that there are a number of very
11 significant things that you've heard about that that
12 bear on what I submit to you is the utter failure of the
13 proof in this case.

14 The third category that I'm going to talk about
15 is Mr. Wilcox. Mr. Wilcox is absolutely essential to
16 the government's case. And I'm going to talk to you
17 about why he is just plainly and simply not an
18 individual on whom you can reasonably rely in making a
19 decision that is going to have a profound impact on one
20 of your fellow citizens.

21 The fourth area is going to be to take a look
22 at the documents, the SW documents, the defense
23 documents, and to show you, to weave and knit those
24 together into these coherent patterns so that you can
25 see what we submit to you is the truth, both of the

1 absence of evidence of guilt and, indeed, although we
2 have no burden, the innocence of Pete Seda.

3 Fifth, I'm going to talk to you at a number of
4 times, not as a separate category, about why the
5 government's theory, and I submit to you all that you
6 have heard is in essence a theory, speculation,
7 assumption, why it makes no sense.

8 And then, finally, I'm going to talk to you
9 about Pete Seda the man, what you have learned about him
10 and about -- to borrow from Mr. Gorder's words -- his
11 actions, and how those actions are entirely inconsistent
12 with anything other than a verdict of not guilty.

13 What are the charges? Well, the charges are a
14 conspiracy to defraud the United States. As you read
15 the indictment, which you'll have with you, you'll see
16 that there is a section called the purpose of the
17 conspiracy and a section called the object of the
18 conspiracy.

19 In essence, what the government has charged is
20 that Mr. Seda and Mr. al-But'he and perhaps others made
21 an agreement to defraud the United States government, an
22 agreement to defraud the government by diverting money
23 from this philanthropist, Dr. El-Fiki, diverting it from
24 its humanitarian purpose, and sending it -- or at least
25 attempting to send it to Chechen mujahideen, and then to

1 hide it from the government by not reporting it on
2 income taxes and by burying it into the Springfield
3 building schedule, and by not reporting the money when
4 it left the country.

5 It's important to keep the focus on those
6 charges because the government asked some of the
7 witnesses about bad reporting, about due diligence, and
8 pointed out other mistakes that Mr. Wilcox made on the
9 return. Those are not the charges in this case. And we
10 hope that you will keep your eye on that.

11 How did this begin? What has the evidence
12 shown you in this case? September 11 of 2001, the Trade
13 Towers came down. Four days later supervisory FBI Agent
14 Joe Boyer from the Portland office in Ashland, Oregon,
15 having a conversation with Pete Seda, with Pete Seda the
16 most prominent and public Muslim in southern Oregon and
17 northern California.

18 And in that conversation, September 15 of 2001,
19 the very week in which Mr. Wilcox, as I will get to you,
20 wants you to believe that Mr. Seda lied to him about
21 this Springfield property. Pete Seda told FBI Agent
22 Boyer about 300 to \$325,000 having been used by
23 al-Haramain to purchase a prayer house in Springfield,
24 Missouri. He told the FBI agent the truth.

25 And at that moment very moment, ladies and

1 gentlemen, I submit this to you: You should have a
2 reasonable doubt about the theory that the government is
3 asking you to accept with an absence of evidence. How
4 on earth can there be a conspiracy that makes any sense
5 at all when the man is telling the government in the
6 form of the FBI supervisory agent about the property and
7 giving him the correct number on the check that he knew
8 about, on the check that he, Pete Seda, knew about?
9 Reasonable doubt right there.

10 It just makes no sense to tell the truth to the
11 FBI and then a week later to be said, oh, I'm lying to
12 my accountant.

13 You know that the FBI started serving subpoenas
14 and you know that Agent Anderson came into this case
15 several months later. And what you've learned is that
16 over the course of the next two years, the government
17 served scores of subpoenas, phone records, bank records,
18 property records, personal records, business records,
19 the fine-tooth comb of the United States government with
20 all of its might and all of its investigative resources
21 trained on Pete Seda, the arborist, and the al-Haramain
22 Foundation of Ashland, Oregon.

23 After two years, perhaps curious about some
24 things, and I would ask this: If the United States
25 government subpoenaed each and every one of the records

1 of each of every one of us in this courtroom, I imagine
2 that it would find some things that it would be curious
3 about. And if we have accountants, that it might want
4 to check with our accountants about it. And that's
5 precisely what Agent Anderson did. Agent Anderson is
6 dogged. Agent Anderson is an intelligent person. But
7 Agent Anderson told you five years in the IRS at that
8 time, I believe, if I've done the math correctly, it's
9 the first case that she had ever encountered from
10 Medford, Oregon, where she had been stationed, involving
11 traveler's checks, tracing of this nature, involving
12 anything overseas, involving anything that might be
13 suggestive of an international mujahideen issue. This
14 is big. And she is taking it seriously, as we all want
15 our law enforcement people to do. But something
16 happened.

17 When she went to talk to Tom Wilcox in June of
18 2003, what you learned is that Tom Wilcox lied to Agent
19 Anderson. There is no polite way for me to describe
20 what happened. Tom Wilcox told you that he was a little
21 worried about maybe some liability for himself, and he
22 spoke with a lawyer. I don't recall if it was 2003 or
23 2004, but early on, he spoke with a lawyer about his own
24 potential liability.

25 Recall back, what is happening in June of 2003?

1 He knows that he has done work for an Islamic charity.
2 He is aware of very strong anti-Muslim feelings in this
3 country of ours from September 11th. And he knows, of
4 course, that that has been all over the media because
5 the invasion of Iraq took place in March of 2003. And I
6 regret to say it, you saw him, and you will make your
7 own judgment, but I don't think that Tom Wilcox had the
8 courage, had the innate humanity, if you will, to
9 acknowledge what had happened.

10 Agent Anderson was told by Tom Wilcox they,
11 al-Haramain, coded the items on the Springfield building
12 schedule. Agent Anderson was told al-Haramain printed
13 the Springfield building schedule. Agent Anderson was
14 told nothing about any story that you have now heard
15 about conversations with Pete Seda. It did not occur in
16 June of 2003 or, as you learned, when the agent went
17 back to him in November of 2003.

18 Go forward another year. You know that in
19 2004, the government agents were speaking with Evan
20 Kohlmann, at that time three years out of Georgetown.
21 Now, Georgetown may be a fine university in Washington,
22 D.C., but I would ask all of you to reflect upon your
23 experiences in what may well be comparable colleges and
24 universities here in Oregon or elsewhere. This man is
25 three years out of college and he is doing Internet

1 research. And he has a theory that he discusses with
2 Agent Anderson.

3 He has a theory about which he had written in
4 his senior thesis, and that was a theory about this
5 mysterious entity that he calls the Arab Afghans. But
6 Evan Kohlmann in 2004, explaining that theory, knows
7 nothing, as he knows nothing when he testifies in this
8 courtroom six years later, about Pete Seda. He knows
9 nothing about any actions taken by the al-Haramain
10 Ashland organization in Saudi Arabia or, if any, in
11 Chechnya. And he knows nothing about the donation by
12 the doctor, philanthropist, Mahmoud El-Fiki, where it
13 went, what happened to it. And I submit to you he knows
14 precious little about the operation of any Saudi
15 charities other than what any one of us could read
16 online.

17 A terrible, terrible, terrible thing happens.
18 What happens is that Agent Anderson, armed with this
19 information, armed with this misinformation, goes into
20 the grand jury and tells the grand jury, as you heard
21 her testify, what, four years later, she learned to be a
22 lie. She didn't know that. But Tom Wilcox did.
23 Because this indictment was based on a lie. This
24 indictment was based on Tom Wilcox's having told Agent
25 Anderson I received this Springfield building schedule,

1 this piece of paper that you've seen on the computer any
2 number of times, al-Haramain people coded all this data,
3 they printed it out, they handed me the piece of paper.

4 And the grand jurors, perhaps reasonably, said,
5 well, all right, you know, the standard we have to deal
6 with is a lot less than in a trial, they return an
7 indictment. The indictment will be there with you, and
8 you'll be able to read how in February of 2000
9 al-Haramain Riyadh is the charge. The government has
10 recognized until they needed to change their theory to
11 fit the testimony that has come out, but this donation
12 is to al-Haramain Riyadh, was contacted by an individual
13 in Egypt seeking to donate \$150,000 as Zakat. We'll get
14 back to that.

15 Paragraph O, in or about September of 2001,
16 defendant Pirouz Sedaghaty provided a financial summary
17 to his accountant -- defendant Pirouz Sedaghaty provided
18 a financial summary to his accountant detailing the
19 funds used to purchase the building in Springfield.

20 And the other mistake that's made, the
21 accounting is allegedly false because Sedaghaty
22 represented to the accountant that the \$21,000 cashier's
23 check to Soliman al-But'he were funds returned to the
24 original donor, that is Dr. El-Fiki. The testimony in
25 this courtroom is to the contrary. The money was all

1 taken out by Soliman al-But'he. That's how this case
2 begins, ladies and gentlemen. This case begins based on
3 a mistake, based on a lie.

4 What happens? What happens with Tom Wilcox?
5 What happens with Pete Seda? Larry Matasar and I get
6 into the case. We hire Jeff Cone. We hire a number of
7 people. We have the staff in the Federal Defender
8 Office looking at this material. And there is no
9 question that some of this accounting stuff takes a
10 while to understand, especially for guys like me who
11 ain't accountants.

12 Jeff Cone, Jeff Cone is a person with both CPA
13 training and significant computer skills. Jeff Cone
14 gets into the metadata. And that metadata tells us that
15 Tom Wilcox entered, coded, these Springfield items, and
16 Tom Wilcox printed the Springfield items. The metadata
17 tells us with absolute 100 percent certainty, to the
18 extent that there is anything certain in this great
19 world of ours, that what Tom Wilcox had said in 2003 was
20 untrue. For six years, he had stuck by this lie, this
21 story.

22 The interview in May of 2009 that took place
23 with Mr. Matasar and one of my investigators and me,
24 took place in Agent Anderson's office. She heard, and
25 I'm sure it was quite clear to her that she knew and

1 understood from our questioning what we understood. She
2 went back to Mr. Wilcox, you've learned, in August. And
3 when she went back to him in August, she went back with
4 two things. She showed him the audit trail.

5 And I hope you recall the difference that Jeff
6 Cone told you about between the audit trail that's
7 available to any QuickBooks user and the Jeff Cone
8 produced view, the QuickBooks viewer as he called it,
9 that pulls out more of the metadata, because when Agent
10 Anderson went, she went with the audit trail.

11 Wilcox looks at it. And Wilcox goes, oh, gosh,
12 you know, appears as though you got me. I -- appears as
13 though that, you know, this coding, looks like I did it.
14 Coding looks like I did it. Yeah, looks like I printed
15 it. And for the first time, Mr. Wilcox tells this story
16 about conversations with Pete Seda. Oh, well, gee, I
17 must have talked to Pete, and he told me this stuff, and
18 then I had a meeting with him. I had a meeting with him
19 on September 25.

20 Now, please note this date, because it is
21 highly significant. Mr. Gorder said to you, well, wait
22 a minute, you know, geez, was it by phone, what day is
23 it? Well, you know, it doesn't matter.

24 Ladies and gentlemen, it does matter. It
25 matters because it helps you decide, I submit, whether

1 or not you are going to rely on anything that Tom Wilcox
2 said to you.

3 Here is why: Think about memory. Our mind, I
4 don't know if you -- any of you have ever studied it.
5 How does memory get created? How does memory shift?
6 What happens? Wilcox is confronted with something he
7 believes to be a fact, an audit trail, a timesheet. He
8 believes that those are facts. So he conforms his
9 memory to what it is that Agent Anderson shows him.
10 She's not doing anything improper. But Tom Wilcox,
11 whether unconsciously or consciously, conforms his
12 memory to the facts as he understands them to be from
13 the documents that Agent Anderson shows him.

14 But you now know that you cannot rely, and I
15 would submit, on anything that Mr. Wilcox said. You
16 know that for several, absolutely critical, and
17 irrefutable reasons. While he told Agent Anderson based
18 on that timesheet that the meeting with Mr. Seda that he
19 alleges takes place, that I submit to you he made up,
20 occurred on September 25, he is subsequently before his
21 testimony in this courtroom, shown and looks more
22 carefully at the audit trail, and he sees an entry at
23 1:06 p.m. on September 24. Remember that testimony?
24 1:06 p.m. on September 24. So when he comes into this
25 courtroom, he has shifted his memory again. He has

1 conformed his memory again, an entirely new story to fit
2 what he now believes to be the facts.

3 Well, you know, I looked at this. Well, I know
4 I told Agent Anderson September 25, but, folks, it had
5 to be September 24. And I know -- I know it was at
6 1:00 p.m. He was specific. And I regret that I have to
7 say this is a specific manufactured memory because of
8 the 1:06 p.m. entry on the audit trail. It's in
9 evidence. Look it up, please.

10 But what Mr. Wilcox didn't know, because I
11 submit these conversations never took place, and I
12 submit to you there is absolutely nothing that you can
13 rely on from these conversations, is that the metadata
14 that Jeff Cone has extracted from the audit trail shows
15 that Tom Wilcox entered one of the items that's on this
16 Springfield building schedule, the \$4,000 check, he
17 entered it on September 20th. Please put the audit
18 trail next to the Jeff Cone QuickBooks viewer, and you
19 will see how Tom Wilcox is shifting his story,
20 conforming it to whatever is put in front of him.

21 And I ask you, ladies and gentlemen, would you
22 take an action in an important matter, an important
23 matter involving the future of one of your fellow
24 citizens, based on that type of testimony? Can you rely
25 on that in any way? He, I regret to say, consciously or

1 unconsciously, lied to the government and he lied to
2 you.

3 You had the misfortune to see a weak human
4 being, a weak human being who lied to you, who was
5 making things up in this courtroom, and I want to give
6 you one other example of that, because, again, it is the
7 metadata that establishes the way in which he is making
8 things up to protect himself because he can't own up to
9 what he's done. And that has to do with this \$2060
10 check, which is BOA-6.

11 Remember his testimony, please. He tells you
12 that he read an article in *Readers Digest*, about 2009,
13 written by Daveed Gartenstein-Ross, and when he read
14 this article in 2009, he recalled, oh, yeah, right, nine
15 years ago or eight years ago, I had a conversation with
16 Pete Seda. Yeah, okay, maybe, something can trigger a
17 memory. Something can also create a memory. Any
18 student of psychology and human memory will tell you
19 that. How can you know whether or not this is something
20 to rely on?

21 Here is how: He gave you a story made up on
22 the spot. He looks at the check. And it has the year
23 1998 on it. That's wrong. There's not a dispute about
24 that. But what it is utterly significant about the fact
25 is that Mr. Wilcox makes up a story based on what he's

1 presented. "I coded that check into the fixed assets
2 account." He recalls coding it into the fixed asset
3 account. He is shown the fixed asset account. And he
4 says, "it's not there." Okay. He didn't say generally,
5 as Mr. Gorder said, well, you know, I entered it. No.

6 It is significant to look at the detail because
7 he's making this up. He didn't say "property." He
8 didn't say the "record." "Fixed assets." And he looks
9 and it's not there. And what does he say? "Well, you
10 know, that was my memory. I guess I didn't do it." And
11 Mr. Matasar says, "well, Mr. Wilcox, you never had any
12 conversation with Pete Seda?" "No, I had a conversation
13 with Pete Seda, that's why I coded it." Wait a minute,
14 it's not there. He doesn't get shaken from the fact
15 that he coded it. Okay. And then Mr. Matasar shows
16 him -- Ms. Wells, I think it's 755.7 at page 45. I hope
17 my notes are right here. All right. I have the wrong
18 number. Or can you help me out, Ms. Wells, the date
19 on -- here we go. Can you highlight, there we go. All
20 right.

21 So what you find out is Mr. Wilcox never coded
22 this check at all. Look at this. You heard,
23 undisputed, all of the data entry done in April and May
24 of 2001 is done at the al-Haramain office. All of the
25 coding by Mr. Wilcox takes place from September 19 to

1 September 25, or perhaps October 2nd. And look at the
2 date on this. This check is coded on May 8th. This
3 check is coded by al-Haramain. Mr. Wilcox made up a
4 story. Mr. Wilcox made up a story to conform to some
5 facts as he perhaps thought they were, consciously or
6 unconsciously, and it's just not true.

7 And, again, I say to you, think about it, think
8 about the future of a fellow human being. Think about
9 the man who testified here. Think about the reliability
10 or lack of reliability of the story that he tells, well,
11 all right, maybe I didn't code it, maybe I didn't do it,
12 but Pete Seda told me to. And I respectfully submit to
13 you, that is not something on which you can rely. And
14 there it was.

15 The horribly, horribly unfortunate thing here
16 is that Mr. Wilcox's memory, what he tells you, is
17 entirely inconsistent with reality in a number of other
18 significant respects. Please bear with me here.
19 Because it's not easy to be talking in such a negative
20 way about another person. But this is my client's life
21 that I'm dealing with, and I need to talk some more
22 about Mr. Wilcox.

23 He lied to you, to you here in this courtroom,
24 at least six times, consciously, subconsciously, I don't
25 know. And the mistakes that he told, the misstatements

1 that he made, are on the core issues in this case.

2 First, Chechnya, Mr. Wilcox, when did you first
3 hear of -- excuse me -- Springfield. Ah, start with
4 Springfield. Mr. Wilcox, when did you first hear about
5 Springfield? When I was doing the taxes in September of
6 2001. Remember that testimony, please. And what's his
7 words in terms of whether or not you can rely on this --
8 this isn't an idle memory -- I was stunned. I was
9 stunned to hear about that. It's not true.

10 Ms. Wells, can you put up 43079. This is a
11 document from Tom Wilcox's file. This is a note he
12 typed about a conversation he had with an attorney Chris
13 Helmer of Miller Nash, an attorney working for Pete
14 Seda. And he talks about -- mentions some donations for
15 an individual, 2 percent excise tax may be subject to
16 because they built a building of about \$400,000. Okay.
17 He knows about a building of \$400,000. Here is his
18 note. Okay. Next, let's take a look, please, at 43079.
19 Is that -- we're there. Whoops. 43697. As I said,
20 there are lots of exhibits. And you've got to put them
21 in sequence to understand the significance.

22 He is doing payroll for a fellow named Eberle,
23 Deya ud-Deen Eberle, in Springfield, Missouri. He knows
24 that there is al-Haramain activity in Springfield,
25 Missouri.

1 And let's go then, please, to 43656. Another
2 form that he has proposed for Mr. Eberle. If you can
3 come down to Springfield lower down on the page. And
4 he's mailing it to Springfield.

5 I submit to you, ladies and gentlemen, that Tom
6 Wilcox knew in the spring of 2001 about the Springfield
7 property. He knew that the value was approximately
8 \$400,000. He discussed it with Pete Seda's attorneys at
9 Miller Nash. And he prepared papers with a Springfield
10 address, the very address when you compare, not on this
11 one, but on the other one, compare the address with the
12 address on the closing statement of the Springfield,
13 Missouri.

14 Next, Chechnya. Chechnya. "I never heard
15 about anything with relationship to Chechnya from Pete
16 Seda until I heard about it from the United States
17 government years later." Wow, "I don't know about
18 Springfield, my hands are clean. I don't know about
19 Chechnya, my hands are clean," but it's not true.

20 Mr. Matasar showed him 43386, please. This is
21 a letter from Chris Helmer, the Miller Nash lawyer.
22 Chris Helmer is talking about a number of things.
23 Mr. Seda, we'll get to all of his desires to be a
24 humanitarian organization. And then further down the
25 page, "I explained to him some of the problems that you

1 have been having with Chechnya, Nigeria, and other
2 countries. And he knew fully well what I was talking
3 about." Chechnya. This is a letter from the lawyer.
4 Spring.

5 Next please, 42651. Now, this letter doesn't
6 get to him until November of 2001. But that's not
7 significant. Because his testimony was I never heard of
8 Chechnya until the government told me. And here it is,
9 al-Haramain, "enclosed is a check for 2000. This is a
10 disbursement from our Zakat account. Please use it for
11 relief work in Afghanistan or Chechnya." And Tom Wilcox
12 sat in that witness stand and Tom Wilcox said he never
13 heard of Chechnya. He washed his hands of Chechnya. He
14 washed his hands of Springfield. And he knew about them
15 both.

16 Another lie, moving a little bit away from that
17 core issue, but I think that again if you reflect on his
18 testimony, you'll see how it shows his unreliability.
19 He was absolutely crystal clear, direct in
20 cross-examination, I had obtained an extension for the
21 2001 taxes until September 15th. And then reflect on
22 Mr. Matasar's questioning of him. "Mr. Wilcox, if you
23 could look for the extension for the 2004 Form 990 in
24 your --" "Oh, oh, no, I don't have that. I extended
25 the 1120." What? "Well, there wasn't an 1120 even in

1 '99, was there?

2 "Answer: No, sir.

3 "And there wasn't going to be an 1120 in 2000?

4 "Oh, no, there wasn't.

5 "Well, just for jury, Form 1120 is the
6 corporate return for nonprofit -- for a for profit
7 corporation, that's correct.

8 "Yes, sir.

9 "990 is for a nonprofit.

10 "That's correct.

11 "There is no extension that you got from the
12 IRS for al-Haramain's 990 that was due on May 15th.

13 "That's correct."

14 Reflect on this, ladies and gentlemen. He said
15 something that's not true. He made up a story in front
16 of you. Well, you know, gee, gosh, I filled it out on
17 the wrong form. Reasonable doubt again right there.

18 He says at one point they entered all the
19 deposits. Changes his testimony. No, well, you know, I
20 entered the deposits. He tells you about this IRS
21 letter of January 3, 2002. Well, yeah, I probably
22 embellished, but, again, look at what he's doing in
23 terms of making things up, making things up. The letter
24 is read to him. It says, you know, try to retain one
25 bookkeeper, and then that didn't work out, they retained

1 a second bookkeeper. It's not true. What does he make
2 up for you? I was the bookkeeper. I was the
3 bookkeeper. Yeah, you know, I did the coding. And so
4 Mr. Matasar said to him somewhat sarcastically, well,
5 what, you passed it on to yourself? Yep.

6 That's classic, ladies and gentlemen, of how a
7 person who is struggling with the truth will shift and
8 change and embellish.

9 And think about what you heard from Mr. Gorder,
10 Mr. Gorder stood up in front of you and said he never
11 mentioned Chechnya. He did.

12 Mr. Gorder stood up in front of you and talked
13 about the 1998, the BOA-6, the \$2,060 check. It's
14 relevant.

15 Mr. Gorder says Mr. Seda refused to give the
16 escrow statement to Mr. Wilcox. Well, that's not true
17 either. Mr. Wilcox asked for it. Mr. Seda said why?
18 Mr. Wilcox gave him an answer. Mr. Seda said, you know,
19 we don't have a loan. And Mr. Wilcox said, one of the
20 few things that perhaps you can rely on, "I dropped it."

21 Ladies and gentlemen, I'm not going to take up
22 much of your time with the mistakes that Tom Wilcox
23 made. They are legend. When you look at the returns,
24 you will see his mistakes. Mr. Gorder makes light of
25 the fact. Well, yeah, you put horse shoeing into

1 professional fees. All right. It's not that
2 significant a dollar amount. But I submit it's
3 indicative of the lack of care with which Tom Wilcox
4 regrettably approached his work.

5 But more significantly, we know about the
6 \$18,000 return of the retainer from the law firm that
7 was retained in Washington, D.C. to deal with the
8 *Frontline* issue. And what's significant about that,
9 ladies and gentlemen, is that on the 25th of May, in
10 response to some questions asked by Mr. Wilcox, he
11 received a faxed sheet of paper with the answers. And,
12 unfortunately, my notes are failing me now here, and I
13 don't recall the number of that exhibit, but I invite
14 you to find it. Apologize. But you look at it, and you
15 see that he's told by al-Haramain \$18,000 back from the
16 lawyer for the retainer. Mr. Wilcox ignores the
17 information provided to him by his client and miscodes
18 that \$18,000. al-Haramain says A, Tom Wilcox does B.
19 Mistake.

20 You heard from Mr. Matasar in the opening and
21 he showed you a PowerPoint, and he's far better at these
22 gizmos than I am, and I'm not going to show it to you
23 again. Remember the unemployment tax PowerPoint that
24 Mr. Matasar showed you, and he went through the
25 documents. IRS says they don't have to pay the FUTA,

1 the unemployment tax. Okay. The document comes in, it
2 says, guys, here's your refund. Wilcox, you don't have
3 to pay it. Comes to al-Haramain, al-Haramain sends it
4 to its accountant, the accountant ignores what the IRS
5 said. Next quarter, he has them pay it again. Three
6 times, four times, I don't recall how many.

7 Now, mistakes, you can't blame Pete Seda. And
8 Pete Seda isn't blaming Tom Wilcox. What I'm saying to
9 you -- well, I guess maybe we are blaming Tom Wilcox,
10 because if he had not done this, we would not be here.
11 But how can you rely -- what do these mistakes tell you?
12 They tell you he is, for whatever reason, with whatever
13 pressure should have been on him, doing a slapdash job,
14 ignoring the statement from his client at the outset
15 it's not if I'm going to be audited, it's when. It's
16 not if, it's when.

17 And not only that in terms of how you think
18 about, you know, a conspiracy, hide something from the
19 IRS, Mr. Seda knows from this Form 1023, and make note
20 of this, please, and go back to the language on that
21 form, which you've already seen that says you have an
22 advanced ruling to operate as a charity. An advanced
23 ruling means Pete Seda knew every minute that he was
24 working as al-Haramain Ashland that the IRS was going to
25 thoroughly scrutinize his files. He tells his

1 accountant, "I'm going to be audited because I'm
2 Muslim." He then has a charity. And the charity
3 documents say "you are going to be reviewed." It makes
4 absolutely no sense that he would then try to pull the
5 wool over his accountant's eyes.

6 Probably feels good to see me turning a lot of
7 pages. Mr. Gorder says "wait a minute, folks, you know,
8 it doesn't matter when this meeting took place or how it
9 took place or whatever. You know, he said there was a
10 meeting. But you know something, I've already talked to
11 you about the fax sheet, and what you learned in the
12 redirect of Mr. Wilcox by Mr. Cardani is that Tom Wilcox
13 knows how to write a letter.

14 42914, I think is one of them. 42914, please.
15 Tom Wilcox knows how to write a letter. Tom Wilcox
16 knows how to say to his client, folks, I need some
17 information. Tom Wilcox -- oh, hello, computer. Tom
18 Wilcox -- I have paper. Tom Wilcox says, 42914, please
19 look it up, "I need the following to complete the
20 return." Mr. Cardani went through three or four of
21 these.

22 42592 is another one. Thank you. 42352 is the
23 fax sheet. Look at these. And then ask yourself, this
24 is Wilcox's pattern. You know this is what an
25 accountant is supposed to do. And Mr. Wilcox knows how

1 to do it. You have something significant you are
2 discussing with a client, you note it in your file, you
3 send them a letter, you send them an e-mail, you get
4 back information in written form. And you know there is
5 no note, no writing, no letter, no fax, no nothing, to
6 substantiate this claim that there was a conversation.
7 What happened here with Tom Wilcox? I don't know.

8 He's late. He's already cost his client, as it
9 turned out, I think it was about \$8,000 in late fees.
10 Is he just a sloppy man? Is he scared? Shouldn't the
11 fear perhaps make him be even more careful? I don't
12 know. Is he moving too fast? Maybe.

13 But you heard from Mr. Cone that there is
14 something that happened that may explain why Mr. Wilcox
15 made this mistake on his own. You know that in May
16 there were two sets of checks faxed to him. You recall
17 that there was a 131,000 and a 21,000 faxed at the same
18 time, two or two oh six, is at 1238-A and B perhaps.
19 Here is the 21,000. So you it's the 1238 series, 1238-A
20 and B, and you don't need to show the other one.
21 Members of the jury, it's 1238-A, B, C, and D. Please,
22 look at them. And what you'll see is that the 21,000
23 and the \$131,000 check are faxed at the same time.
24 Suggesting, perhaps, that the people at al-Haramain
25 working on them, viewing them as being related, money

1 that is part of the El-Fiki donation.

2 What you see is that the \$10,000 and \$318,000
3 checks are faxed at the same time. Both of those checks
4 are related to the Springfield building schedule, to the
5 Springfield property. Those checks have come into
6 Mr. Wilcox four months before. He's in a hurry, as Jeff
7 Cone told you, from the metadata, he's just sitting
8 there plugging away, 40 seconds, 2 minutes, 2-and-a-half
9 minutes, he enters something, takes the next one, enters
10 it, and you can see through Jeff Cone's worksheets how
11 Tom Wilcox entered the checks: January; next, February;
12 next, March; next. And these checks have not come in to
13 al-Haramain, and they are not on the bank statements at
14 the same time.

15 The checks that he enters onto the Springfield
16 building schedule he is coding at different times.
17 Look, please, at Jeff Cone's work. And you can see as
18 Jeff Cone explained how Wilcox was working. The
19 significance here is he has not been given a package by
20 al-Haramain. He has not been given a cluster of
21 anything by al-Haramain. And he doesn't have it as a
22 package or a cluster. But he's moving fast. And he
23 says, all right, you know, this one's got Soliman's name
24 on it, this one has Soliman's -- no, this one has -- and
25 he just enters them. I don't know. I wasn't there.

1 But I submit this to you: Whatever and why ever Tom
2 Wilcox did this, it was not as part of a conspiracy to
3 hide anything from the United States government. There
4 was no conspiracy. Pete Seda had no such intent. He
5 had no need to do anything of that nature.

6 And if I can use one more thing with Wilcox and
7 the accounting, and actually this is probably more
8 Mr. Seda and the accounting, then I will leave this
9 horse flayed enough.

10 The government's theory has to be that in mid
11 September, at some point when this alleged conversation
12 takes place, Pete Seda's fertile brain is conspiring,
13 and Pete Seda is terribly and horribly upset about this
14 money to Chechnya. And Pete Seda is doing everything he
15 possibly can to prevent the United States government
16 from learning about this.

17 Well, that's absurd, because if you want to
18 hide a donation, don't give the stuff to your
19 accountant. Because if you have a competent one, as
20 Seda believes he does with the letters that have come
21 before, you don't leave it to the accountant, well,
22 Mr. Seda, what about this? to do it. Do it yourself if
23 you're going to bury it. That's absurd, on its face.

24 But the government's theory has to have
25 Mr. Seda with his fertile mind and this conspiratorial

1 mood in mid September. If that's true, if that is true,
2 Ms. Wells, can you put up, please -- do you have IRS-1,
3 pages 4 and 17, where we have the two things together?
4 If that's true -- can you get to the 681 and 685, there
5 we go. Here is the depreciation schedule on the tax
6 return. This is the page with line 57a, the alleged
7 misstatement. Well, guess what, folks, Tom Wilcox,
8 independent of anything that Pete Seda said, even he
9 admits this, made a mistake.

10 Tom Wilcox created an inconsistency in this
11 return, folks. Tom Wilcox created an inconsistency that
12 you heard from -- I don't know whether it was one or two
13 or three of the experts who testified about it, but it
14 would certainly draw the attention of the IRS, if you
15 got an inconsistency, the IRS auditors, Mr. Wooten
16 types, they're going to catch it. Look at this, 681,
17 685. The government wants you to believe that Pete Seda
18 is conspiring to hide some transaction from the
19 government and bury it in his tax return.

20 And he had two full weeks, the government says,
21 to look at this tax return, go over it with a fine-tooth
22 comb. Well, you can be sure if there was a conspiracy
23 to bury the El-Fiki donation in the Springfield
24 property, that this arch conspirator would see what
25 Wilcox, I believe it was he himself said, any idiot

1 looking at this would see it. But this arch
2 conspirator, my client, this alleged arch conspirator,
3 supposedly going over this return with a fine-tooth comb
4 to hide it from the government, signs it, turns it in.

5 Mr. Gorder asked you to use your common sense.
6 I do, too. I think this is real common sense, with no
7 disrespect meant.

8 There is no plan. There is no hiding of
9 Springfield. This makes absolutely no sense. And it
10 makes no sense because it doesn't exist.

11 Next, throw Wilcox aside, I should probably
12 shut up and sit down, you've probably had enough, and
13 there is probably enough reasonable doubt in the case
14 right now, but I'm a lawyer. And when we lawyers write
15 briefs, they're never brief. And when we make closing
16 argument, they are never short enough. I know. I will
17 continue. Please bear with me. Because I think there
18 are some equally significant things to talk about in
19 terms of the weaknesses in the government's case beyond
20 this account.

21 What do the documents tell you about what was
22 going on in al-Haramain Ashland in December, January,
23 February, and March of 2000? And here is where I am
24 going to ask you to please, again, play careful
25 attention -- pay, not play -- careful attention to how

1 these documents come together in a coherent pattern of
2 innocence.

3 Generally, you know from what you've heard in
4 this courtroom, if you didn't know it before, that in
5 1999, 2000, the centuries old Russian-Chechen war heated
6 up again. You know from the testimony that you heard in
7 this courtroom that it was a brutal war. You know from
8 the documents that you have seen from the Muslim
9 perspective, it was a genocide. You know from Kohlmann,
10 from Colonel Lang, and from Dr. Long that there were
11 hundreds of thousands of refugees. You also know that
12 from Anwar Khan, who traveled there personally. It's a
13 given.

14 You know from Dr. Long that the Department of
15 State was sufficiently concerned about Chechnya to put
16 into its country human rights reports write-ups about
17 the Russian atrocities in Chechnya in that time frame.
18 This is an international catastrophe. This is an
19 international catastrophe that motivated much of the
20 world.

21 Pete Seda, Mr. Cardani said in his opening,
22 that Pete Seda, my client, had an obsession with
23 Chechnya. Pete Seda was unquestionably concerned about
24 Chechnya. And Pete Seda's concern is a concern that you
25 heard was personally shared by Colonel Patrick Lang, the

1 former head of the Department of Defense Intelligence
2 Agency.

3 And you heard from Dr. David Long, the former
4 deputy director of counterterrorism for our Department
5 of State that it was our United States government's
6 policy to be concerned.

7 Pete Seda is in the mainstream. You know from
8 exhibits -- I don't need to show these, Ms. Wells, but
9 please take a look at them, 692, the photograph series,
10 B through G, *Time Magazine* running photographs of the
11 destruction, the devastation, the refugees in Chechnya.

12 You know from exhibits -- I think they may have
13 been 634 and 641, CNN, hardly a bastion of radicalism,
14 lots of stories about the devastation in Chechnya.
15 Okay. That's the context.

16 Now, to the Muslim world, when you look at the
17 e-mails from Azzam, the Sheeshaan ListServ what you see
18 is more invective, you see more anger, you see more
19 discussion about -- one of them, the headlines is 26,000
20 rapes. You see more discussion about -- from Islamic
21 Relief -- children without heat. To be sure, the
22 perspective of the Muslim world perhaps viewing the
23 victims of the Chechen atrocity as brothers or brothers
24 and sisters is more intense.

25 But I ask any of you of Irish extraction to

1 think about the Troubles in Ireland, and what you might
2 have seen on an Irish Web site as opposed to CNN, the
3 perspective. Those of you who are Palestinian, those of
4 you who are Jewish, think about what you might see on
5 Web sites from your people talking about issues of
6 concern that get you more in the gut than to the broader
7 world where it's more of an abstraction.

8 Yes, to be sure there were people in the Muslim
9 world who were terribly upset. And to be sure there
10 were many people in the Muslim world who wanted the
11 Chechens to win. They wanted the Chechens to win
12 perhaps because they believe in freedom. They wanted
13 the Chechens to win, perhaps, for Islamic reasons. Or
14 they wanted the Chechens to win to stop the genocide and
15 the rapes. It's a given. You've seen the e-mails. We
16 don't dispute them.

17 But what is the issue? Let us drill into these
18 series of e-mails that the government trots in front of
19 you, oh, my God, they say, guilt by association. I am
20 so offended at this photograph that's been here, whose
21 back is now turned, guilt by association. That has no
22 place in an American courtroom. That's what they are
23 asking you to do.

24 Pete Seda had e-mails on his computer from
25 ListSrvs, find him guilty. Hold him responsible for

1 them. I wonder how many of us should worry about some
2 e-mails that might be on our computers. Or if the
3 government went through us with a fine-tooth comb. But
4 let's dispassionately look at Pete Seda's activities
5 with respect to these e-mails.

6 What do you see in evidence? Can we have
7 SW-69, please. SW-69, it's an e-mail from Q to AQ, from
8 Pete to Abdul Qaadir, to the evil nemesis Abdul Qaadir
9 who sends out all this stuff. He's responding to a
10 Sheeshaan ListServ e-mail. What does Pete Seda do?
11 Hey, look, [www.pathfinder.com/time/daily/special/photo/](http://www.pathfinder.com/time/daily/special/photo/Grozny)
12 Grozny. Pete Seda responds to AQ, forwarding a *Time*
13 Magazine e-mail. That's one.

14 SW-18, please. The evil Azzam Web site.
15 What's found on Pete Seda's computer? What's found on
16 the al-Haramain computer? SW-18. Please, put these
17 together, SW-69, SW-18, to Azzam. This e-mail forwards
18 CNN back to Azzam. Yo, you radical dudes, you better
19 take a look at what's on CNN. Not "go jihad," not "go
20 brother."

21 SW-20. A third, SW-20, The Arborist, what does
22 he forward? Yes, the subject line is Russia's fears
23 about terrorism are valid. This is a CNN article, to
24 Azzam. Hardly any indication of support for the
25 mujahideen.

1 SW-36. The fourth, SW-36, Pete to Sheeshaan
2 responding to a listing of postings that other people
3 have placed, and he writes back, the e-mail has "call
4 me." Four e-mails.

5 Please, go through all of the SW's. Go through
6 every e-mail that the government submitted to you, and
7 take a look about what you can see in those e-mails, the
8 government's evidence, that informs you on this question
9 of intent or willfulness. You'll find four. Perhaps I
10 missed one, perhaps not.

11 And now to the fifth one. The fifth one isn't
12 a response to these guys. The fifth one is an e-mail
13 from Mr. Seda to Mr. al-But'he. Mr. Gorder went through
14 this. And as Mr. Gorder went through this, I'm sitting
15 there thinking "he's calling this the smoking gun?" I'm
16 about to get up and tell you that this is an absolutely
17 critical piece of defense evidence that has been
18 submitted by the government. And here is why: Let's
19 start, please, with SW-56.

20 You were shown that there was an interview, a
21 full, 12-page interview with Ibn Khattab on the Web.
22 Okay. Oh, Ibn Khattab, a man about whom there is no
23 evidence of any connection, knowledge, or anything
24 between Pete Seda and Ibn Khattab. The government gives
25 you zero. The suggestion that there is a relationship

1 between Pete Seda and Ibn Khattab is offensive.

2 Now, what is in here? On page 6, question 6,
3 Exhibit 52, please -- I'm sorry, you know, Ms. Wells, I
4 went too fast there. We need to get to page 6. We need
5 to get to the question 6 in this one. Oh, I'm sorry.
6 Thank you.

7 Question 6, what Mr. Gorder did not show you,
8 you need to look at, please. Question 6, do you need
9 any support? What support? Question 6 has two
10 paragraphs. Please, study this when you are back in the
11 jury room on this exhibit. Paragraph 1, "Chechen
12 Republic has been surrounded from all sides. Russian
13 Army prepared to sell everything for a price. Through
14 previous affairs, one would always find Islamic
15 charities and organizations present. Sorry to say there
16 is not a single one active inside Chechnya at present.
17 Only the Red Cross is present in the Chechen towns and
18 cities. Therefore, we advise the Muslims and the Muslim
19 countries to take a sincere stand with the mujahideen in
20 the land of the Caucasus."

21 What's the import of that paragraph, folks? Is
22 the import of that paragraph, please, folks, the
23 Russians are devastating Chechnya. There are no
24 humanitarian organizations. Please help us with
25 humanitarian aid?

1 Now, look at paragraph -- the next paragraph.
2 The next paragraph goes on and moves away from
3 humanitarian aid. The Muslim and Arab world is in a --

4 THE COURT: A little slower, please.

5 MR. WAX: I'm sorry, Your Honor. "Is under the
6 grip and influence of the deceiving and lying Western
7 media. Stand by your mujahideen brothers. Arab
8 countries are not able to help the mujahideen due to the
9 difficulties in finding out the reality of the
10 situation. Now you know full well what is happening."

11 Stand by us. Not a call to arms, but not
12 discussing humanitarian aid. Okay. Two paragraphs,
13 please, look at this when you are back there.

14 Now, if we go to 52. 52, this is the Word
15 document, right? What do you see? One paragraph or
16 two? Just one. Just the first one. Just the
17 humanitarian aid one.

18 Now, please, SW-11. It's only the first
19 paragraph that Pete Seda forwards on to Soliman
20 al-But'he, the humanitarian paragraph.

21 I ask you to please read every single paragraph
22 of that SW-56, all 12 pages, and you will find things
23 about fighting, you will find things about the
24 mujahideen, you will find many things.

25 Pete Seda, according to this e-mail introduced

1 by the government, distracted one, the only paragraph
2 related to humanitarian support. And doesn't that tell
3 you what is in Pete Seda's mind on January 22 of 2000?
4 Humanitarian support. Nothing else.

5 Let's put that in context now. Let's look
6 closely at these other e-mails. And I encourage you to
7 go through them with care. Ms. Wells, I'll call out
8 numbers on occasion, but let me just roll for a minute.
9 We start with Exhibits 1004 to 1015. 1004 to 1015,
10 checks that come in in the fall. Checks earmarked for
11 Chechen relief.

12 We then can pick up at Exhibit 683. And I
13 would ask you to please pay careful attention when you
14 are deliberating to the sequence of exhibits that run
15 from 683 with all the A's and B's, up to 700-A through
16 G. Please look at that series. And what you will find
17 is a series of e-mails that discuss humanitarian
18 assistance.

19 Ms. Wells, if we could go back, please, 683-A,
20 I'm sorry, 683. From P to al-But'he, December 30th.
21 He's forwarding the e-mail regarding the lorry in Spain.
22 Help the Muslims. Human help for Chechnya. That's what
23 you find in these e-mails.

24 If we can go, please, to 683-C. Horrible
25 condition. P to al-But'he, describing the horrible

1 condition. The goal, a large truck convey of food and
2 medicine. Goal is to enter and relieve Grozny,
3 et cetera.

4 Let's go back to 683-B, please. 683-B is from
5 al-But'he to P. Now, the government pointed out what it
6 called its hide the ball, what was it? The be careful
7 e-mail, Mr. Gorder said, of February. Well, look not at
8 the be careful e-mail, which is Mr. Gorder's spin, look
9 at all these e-mails and see what Pete Seda is reading
10 from Mr. al-But'he. This absolutely critical two,
11 two-and-a-half month period. Please, read them all.
12 Humanitarian aid, horrible condition, what can we do?
13 Let's get some humanitarian aid here. al-But'he, Seda,
14 Seda, al-But'he. And Daveed Gartenstein-Ross who was
15 here, who testified, who testified about his involvement
16 in trying to help.

17 What do you see? You see, if we could go,
18 please, to 689. I'm not going to take you through all
19 of these. But 689, Gartenstein-Ross talked to you about
20 the letter to the Russians. The letter to the Russians
21 that Mr. Seda had said something, you know, Rasputin,
22 you know, and he's angry about Rasputin, but look,
23 please, carefully at the draft that starts out with kiss
24 your whatever, Rasputin. Look at the text and compare
25 the text with this letter addressed to the Russians.

1 Now, conspiracy. Anwar Khan said, you know,
2 I'm a big organization, whatever he is now, 130 million
3 bucks. I'm Anwar Khan with a team of accountants, a
4 team of lawyers. Anwar Khan gets permission from the
5 Russian government in 1999 to go to Chechnya. What is
6 this letter doing? It is seeking permission from the
7 Russian government. Conspiracy? No. That's not a
8 conspiracy. It's out in the open. It's not hiding
9 anything. Mr. Seda, putting himself out there, please,
10 let me do this legally.

11 Gartenstein-Ross told you, and
12 Gartenstein-Ross's e-mail show, a pattern, January,
13 February, March, let me help. Beautiful Grozny project.
14 Well, he says Pete's a bit of a visionary or
15 unrealistic, maybe so. But he's not conspiring. You
16 don't engage in a secret agreement. You don't engage in
17 what the government theorizes this way. That's nuts.

18 All right. You go through these, and I want to
19 just get to the end here, please look at them all.

20 You heard today from Patricia Florin. Why on
21 earth did we call Patricia Florin? We called Patricia
22 Florin because at the end of this sequence, the end of
23 this period, the end of the period where Mr. Seda is
24 trying to get some convey going, to try to get some
25 humanitarian aid to Chechnya, this alleged conspirator,

1 this person Mr. Gorder says is hiding everything, and
2 Mr. Cardani, understand, he gets to get up after me and
3 talk to you again, and I'm sure he'll have something to
4 say about this. And I hope when he's talking, you'll be
5 thinking, hey, what would Wax say back to him? What
6 would Matasar say back to him?

7 Conspiracy? Hi, Patricia, I'm trying to find
8 an organization to help me get some humanitarian aid to
9 Chechnya. Mr. Gorder kept saying that's a charity?
10 That's a charity? Well, I don't want to parrot, that's
11 a conspiracy? That's a conspiracy? Come on. Common
12 sense.

13 You are conspiring to get money to Chechnya
14 that you are not even going to bury into a tax return?
15 Call Patricia Florin, your typist of nine years, hey,
16 Patricia, would you please help me type this letter to
17 doctors of the world, international aid organization.

18 Hey, Marla Cates -- you have available to you
19 to look at e-mails from Marla Cates. What you see is
20 try this organization, try that organization.

21 And then you have these 700-A through G series.
22 What you see is e-mails come in, check out this Web
23 site. Can we have 700 -- what is it? A, B, any one of
24 them will do. 700-A through G, World Food Program
25 delivers to Balkans. These things are found -- first of

1 all, you can see printed out, February 29, check the
2 Cates e-mail dates, check the Florin e-mail dates.
3 These things are printed out. These things appear, are
4 found, and turned over from the al-Haramain Ashland
5 office to the government in response to the subpoena.

6 It certainly appears -- this one is March 1,
7 the other was the 29th. That someone in al-Haramain was
8 taking seriously the advice that was coming in from
9 people like Cates.

10 Now, one more thing about the SW series, if we
11 could, please, put up SW-61. Again, Mr. Gorder pulls
12 this one out, and I'm thinking, well, all right, we got
13 a repeat on something. The translation. The
14 translation. Can we highlight, please, the top just --
15 wait until we post the details of the aid organization
16 able to collect these donations. Go through this.

17 Yes, there is talk about the mujahideen. But
18 this translation work, the evidence that the government
19 gives you, is evidence discussing humanitarian aid.

20 Okay. Is Ptichka doing this? Is Ptichka the
21 same as Sofia, Mr. Seda's wife at the time? Is the "we"
22 in the other e-mail, Mr. Seda? Well, maybe, sure. It
23 doesn't matter. Because humanitarian aid. Okay.

24 Now, at this point I need to say this: We deny
25 and I am arguing to you that there was ever any intent

1 or effort to provide any assistance to the mujahideen.

2 Okay. So don't take wrong what I'm about to
3 say next, please. You heard from Marcus Owens. Marcus
4 Owens sat in this witness stand, and Marcus Owens told
5 you "I am the former head of the charitable tax section
6 of the Internal Revenue Service." No, he doesn't do the
7 audits. He writes the book. Okay. "I lecture, I tell
8 people how to do it, I tell people what the law is." It
9 is the Marcus Owens of the world who tell the
10 Mr. Wootens of the world what to look for. They give
11 the direction to the auditors, what is legal and what is
12 not.

13 The fact that he's not done an audit is
14 irrelevant. And Marcus Owens told you something
15 critically important. Under the Internal Revenue Code
16 and under the purposes section of the charitable Form
17 1023, it is lawful, it is within the charitable purpose
18 of the charity to give humanitarian assistance to
19 fighters. Didn't happen. From Mr. Seda. Ptichka, if
20 she's doing anything, is she doing it on her own? Is
21 she doing it through al-Haramain? Zero proof. You
22 cannot use that to say, oh, guilty.

23 Humanitarian, Mr. Owens told you if Mr. Seda
24 has knowledge and participation in anything like that,
25 it is legal. It does not violate the charitable

1 purposes. Absolutely critical point. Marcus Owens, the
2 man who was the person in charge of making this type of
3 decision in 2000, the very year in which this
4 transaction took place. Okay. Unrefuted, un rebutted
5 testimony. That's the law, according to Owens, the man
6 who writes the book.

7 Now, the El-Fiki donation. It's important to
8 focus on it for several reasons. It's important to
9 focus on it because you know some things about it and
10 there are some things that you don't. And what you do
11 know about it shows that the government has a theory
12 based on a total absence of fact. What you heard from
13 Mr. Owens, he had the opportunity to review a report
14 prepared by or as a result of work done by the Egyptian
15 state security police. Thoroughly reviewed, he said,
16 Dr. Mahmoud El-Fiki, the wealthy Egyptian
17 philanthropist.

18 There was absolutely nothing that Mr. Owens
19 observed that cast any doubt on the bona fides of
20 Dr. El-Fiki and of the humanitarian purpose of his
21 donation.

22 Oh, boy, Islam, Zakat, five pillars, et cetera.
23 Why is that relevant? I was a little surprised to hear
24 Mr. Gorder making light of Colonel Lang and Dr. Long.
25 These are two men who have devoted their entire

1 professional careers to defending the United States
2 government against all enemies foreign and domestic.
3 They have held the highest security clearances of any
4 person in this land.

5 Colonel Lang, when he was working in the
6 Department of Defense in the late 1980s, was one of
7 those guys who would go into the bowels of the White
8 House and 7:30 in the morning, the President there with
9 his cup of coffee, hey, guys, did the world blow up
10 anywhere last night? And Colonel Patrick Lang is one of
11 the ones -- and he's got an ego -- who would say, no,
12 President Reagan, the world is still there. George H.W.
13 Bush, he said, he briefed him, I don't recall if he said
14 on a daily basis, but quite frequently during the Gulf
15 War.

16 Colonel Walter Patrick Lang continues to work
17 for and defend the United States of America from all
18 enemies, foreign and domestic, for our government,
19 today. The suggestion that he is out-of-date, I
20 respectfully submit, is completely out of bounds.

21 Dr. David Long left the Department of State in
22 1993. Dr. David Long was the man responsible for
23 counterterrorism activities in the Department of State
24 in the mid 1980s under President Reagan. The top dog
25 for the Middle East. Dr. David Long, he's an older guy,

1 yes, but Dr. David Long has just updated his books on
2 Saudi Arabia, come out this year.

3 Both of these men come into this courtroom, I
4 ask you, would either of those men risk his reputation?
5 Would either of those men, who is still working for the
6 United States government, come into this courtroom and
7 talk to you for money? I don't think either of those
8 guys can be bought. Yes. We're paying them, but the
9 suggestion that we bought their testimony, I think each
10 of them would find offensive.

11 They are patriots. They are men still working
12 for this country, keeping us safe. And both of them
13 came here on behalf of Pete Seda to testify and to tell
14 you what they have learned through two lifetimes of
15 experience in the Middle East. Why?

16 Our cultures are different. There is no
17 suggestion that all Saudis are perfect. But what you
18 needed to understand to try to put the government's
19 fact-less theory in context is the reality of the Saudi
20 world. And you heard from these two distinguished
21 patriots the following:

22 The Saudi government is awash in money.
23 Probably didn't need to hear that from them. The Saudi
24 government may at times do things we don't like. The
25 Saudi government may at times want to fund some

1 mujahideen. Maybe even the Saudi government might want
2 to fund some terrorists. But both of these men said
3 they would not allow a Zakat donation from an Egyptian
4 philanthropist running through the al-Haramain
5 organization to be used in that way.

6 Evan Kohlmann, 31 years old now, never had a
7 security clearance, never worked for the government,
8 never taught at a university, an Internet researcher,
9 tells you, you know, there are some reports out there
10 that there is some money that gets diverted from some
11 Middle Eastern charities. Evan Kohlmann says that and
12 then Mr. Casey questions him. And Mr. Casey says,
13 Mr. Kohlmann, let's look at your book, your seminal work
14 from 2004, based on your honors thesis, al-Haramain
15 isn't mentioned. Mr. Kohlmann, let's look at your
16 testimony in 2003, al-Haramain isn't mentioned.
17 Mr. Kohlmann, let's look at your testimony to the
18 Danish, al-Haramain isn't mentioned. Mr. Kohlmann,
19 let's look at your more recent activities, al-Haramain
20 isn't mentioned.

21 You heard nothing from Evan Kohlmann that in
22 any way undermines or detracts from what you heard from
23 the two patriots who came in and testified when called
24 by the defense. It would never be permitted to happen
25 under Saudi society. Those guys are experts. They

1 lived there.

2 If you believe in the spy netherworld, they
3 probably ran the world there for a while each of them in
4 his own way.

5 Dr. Long told you that he continues to maintain
6 close contact with high current and former Saudi
7 officials. He told you he discussed the SJRC and
8 al-Haramain with them. Did he get tired at the end of
9 day? Yeah. All right. Whatever. They told you the
10 truth, the reality of how things work. That's why Zakat
11 is important. That's why it is critical to look at what
12 is described, please, Ms. Cooke, SW-5.

13 Now, we don't know, because the government
14 hasn't offered any proof, whether the attached ad,
15 whether this is the advertisement that Dr. El-Fiki saw.
16 All we know from his e-mail that I'll get to in a
17 moment, his e-mail of January 11, is that he became
18 aware that there was a committee seeking relief. But
19 this advertisement is all about humanitarian work.

20 Okay. Now, we go to Exhibit, please,
21 Ms. Wells, 669. This is the e-mail from El-Fiki to
22 Haramain, and this is Saudi al-Haramain. The government
23 doesn't make any bones about that. And he is talking
24 about Zakat, Zakat, Zakat. And Dr. El-Fiki is a pretty,
25 you know, rigorous guy. He doesn't take this lightly.

1 You know, he may be sitting on millions, but 150,000
2 bucks is still a little bit more than chump change to
3 him, and he wants to be sure that this is handled
4 properly. So he says, what are you guys going to do for
5 it? In what disciplines are the account revenues going
6 to be spent? The syntax isn't the greatest, but what
7 are you going to do with it? And I need a receipt. And
8 Zakat.

9 670, please. Response to El-Fiki from Haramain
10 telling him, if we could highlight in the middle,
11 answering your question number 4. Where did it go?
12 Here we go. We will confirm -- we'll send you a receipt
13 after we receive your transaction. And this is probably
14 the answer to number 5, you can look at these, put them
15 side by side, your Zakat should be sent to the poor, the
16 orphans and refugees. This is what al-Haramain tells
17 El-Fiki.

18 671, please. This e-mail 671, again, please,
19 study it, Zakat, Zakat, Zakat.

20 Okay. There is an obligation here. If El-Fiki
21 is a thief, if El-Fiki is a funder of mujahideen, Dr.
22 Mahmoud El-Fiki ain't going to send these e-mails, he's
23 not going to wire the money, he's not going to have the
24 wire transactions with his bank in London. Want to give
25 money to the mujahideen? You do it another way.

1 If you are al-Haramain, and you want to divert
2 funds to the mujahideen, and maybe they did at that
3 time, you don't take this. Why? Long and Lang told
4 you. The Saudis take their religion seriously. Now,
5 there may be hypocrites there. Sure. There are
6 hypocrites in every religion. Mr. Gorder gave you some
7 examples of the hypocritical theological people in this
8 country. But under the Saudi system, awash in oil
9 money, you want to get money to Chechen mujahideen, you
10 don't do it this way.

11 And the United States government, which bears
12 the burden of proof in this case, offered you nothing in
13 rebuttal. They offered you no response. Evan Kohlmann
14 doesn't say a word about this. What Evan Kohlmann says
15 is, I know that al-Haramain is a pretty big charity.
16 Maybe about the size of Islamic Relief. And there are
17 reports that out of the 60, 70 bucks, al-Haramain may
18 have some diverted. You cannot convict Pete Seda if
19 some other guys are doing some diversion when he and
20 Soliman al-But'he have not conspired.

21 And that, ladies and gentlemen, at its core is
22 what the United States is asking you to do in this
23 trial. And we say please respectfully say no.

24 The SJRC, Osama bin Laden's best friend was put
25 in charge. Okay. Smear. Where is the evidence? Where

1 is the evidence from the United States government that
2 the SJRC activity in Chechnya ever had a diversion?

3 Patrick Lang, Colonel Lang, and Dr. Long told
4 you the members of the SJRC and the al-Haramain board
5 are the Saudi kings and princes, the minister of the
6 interior, the security minister. They don't do it this
7 way. And you have zero evidence. That's what the judge
8 has told you you need to have. That's the importance of
9 Zakat.

10 Couple more points about that and I'll move on
11 to the last section of my argument. The indictment, I
12 read you the indictment at the outset because the
13 indictment itself alleges that Dr. El-Fiki sent this
14 Zakat to al-Haramain Riyadh. Mr. Owens told you
15 explicitly about the relationship between al-Haramain
16 Saudi and al-Haramain Ashland. Mr. Owens told you about
17 agency. You are not lawyers. He is. The man who wrote
18 the book came in and said to you that this money, as
19 with any money that goes to one charity, when it goes to
20 a different charity, it does not need to appear on the
21 books of that charity. It did not need to appear on the
22 books of al-Haramain in Ashland as long as the money did
23 not last -- you know, cross over a fiscal year.
24 Absolutely critical.

25 Line 1, didn't have to be there. Line 22,

1 didn't have to be there. Just not there.

2 Now, he was also asked, contrary, I would
3 respectfully submit, to what Mr. Gorder said, that the
4 fact that Pete Seda from this e-mail train, you look at
5 it, and you see activity taking place, Pete Seda is
6 interested in Chechen relief before he's aware of
7 El-Fiki. Okay? You'll see that.

8 El-Fiki comes in. Pete Seda goes, wow, let me
9 try and see if I can do something with this larger pot
10 of money. And Mr. Owens explicitly told you that the
11 fact that he did that does not change the legal
12 responsibility.

13 With all respect, Mr. Gorder, that was the
14 testimony from Mr. Owens. And that is the unrefuted
15 evidence in this case. Yes, Mr. Seda tried. Yes.
16 Well, he has this money in hand. He tries. He fails.
17 And Mr. al-But'he takes it back to Saudi.

18 How does he take it back? This traveler check
19 business, I can't explain that except by referring you
20 back to Dr. Long. Dr. Long said to Mr. Gorder, well,
21 you might not do it that way, but that's Saudi.

22 You heard from both Long and Colonel Lang that
23 the Saudi economy is cash based. You heard that the use
24 of monetary instruments is common. Cash is doled out
25 hither, thither, and yon. You heard that there weren't

1 even any banks in Saudi Arabia until sometime in the
2 late 1950s, and then they wouldn't even call it a bank.
3 Now, that's an indication of the strictness of some of
4 the religion there.

5 So Mr. al-But'he, you see from FinCEN-4,
6 please, has a pattern, multi year, of bringing in
7 substantial amounts of money in traveler's checks.
8 Okay. Please look at all of the FinCEN documents
9 because they will show you that these are all -- almost
10 all -- traveler's checks. It's how al-But'he does it.
11 Why? We can't ask him. You can't know. But you see
12 this pattern. And what you will see on the FinCEN
13 documents is every single one of these reports is for
14 entering the country.

15 Now, does he know that he needs to report
16 leaving the country? I submit no. You heard testimony
17 about it from the FinCEN person. There are no signs,
18 there is no notice, there are no forms handed out. Yes,
19 if you read the form carefully when you are sitting on
20 the airplane it says in and out. What you know, though,
21 and I asked the fellow, if you look at June 22 and June
22 26, you know Soliman al-But'he came into the country
23 June 22, '99, with 80,000. He went to Canada. He came
24 back four days later. He reported the traveler's checks
25 again. I don't think that's a man who is trying to hide

1 anything. I think that's a man who understands his
2 obligation to report as involving reporting coming in.

3 Did it cost 1300 bucks? Sure. Does al-But'he
4 usually get his traveler's checks for free at the Al
5 Rajhi Bank? Maybe. Does Mr. al-But'he have the ability
6 and perhaps the obligation to make up the 1300 bucks
7 when he deposits the money in the proper account in
8 Saudi Arabia? Perhaps. This is how they do it.

9 Now, conspiracy. Picture this. Soliman
10 al-But'he, in full Arab regalia, a robe, in Ashland,
11 Oregon, a headaddress in Ashland, Oregon, goes into Pete
12 Seda's bank, interacting with the teller -- excuse me,
13 the manager, Debra Ingram, with whom Pete Seda has done
14 business for years, sitting there and painfully signing
15 out 130,000 -- you know, one-hundred-and-thirty \$1000
16 traveler's checks. Conspiracy? You want to tell the
17 world you're doing something a little bit odd? Go to
18 Ashland, dress like a Saudi, have a darker skin, have a
19 bigger nose, and sign 130 traveler's checks in a
20 thousand dollar denominations. Hello? There is
21 absolutely nothing that the government has shown you of
22 any conspiracy, coverup, hiding of anything.

23 AHIF-2 and 3, don't need to show them, let me
24 just talk about them for a minute. Mr. al-But'he and
25 Mr. Seda are looking at the monies that have come in.

1 And Mr. al-But'he and Mr. Seda have a number of things
2 to look at. I invite you, please, to look at the checks
3 and add them up. It's about \$6200 in checks that came
4 in from November through January. It's the 1004 through
5 1016 series. Look at the ISNA check. 50,000 in the
6 bank, 36,000 once the Canadian discount is applied.

7 If you add up the amount of money for which
8 Mr. Seda was responsible for Chechnya, if you look at
9 the January 6th e-mails, and those January 6th e-mails
10 are -- we don't need to show them right now, because I'm
11 running out of time, please look them up, though, 686
12 and 686-A. They are the e-mails that say please
13 deposit, you know, to our account, 3,000 and 940. With
14 responses from al-But'he saying, yeah, I'll do my best.

15 What do you have here? You have what the
16 accountants call a pass-through or an offset. You have
17 the e-mail that is in evidence that, again, we don't
18 have to show it, but if you don't mind, make a note, 760
19 and 760-A, the March 6th e-mails and attachment
20 suggesting that Mr. al-But'he was going to bring in the
21 budget, the money for funding of al-Haramain for the
22 next six-month period. And you'll see in some of the
23 exhibits, it's about 49,000 bucks that comes in from
24 time to time. There are months with a zero amount in
25 and then you'll get a bunch of money in, and then you'll

1 get some more zeros. What's going on here?

2 Well, what I submit is going on is that
3 Mr. Seda and Mr. al-But'he are sitting there and trying
4 to figure out, okay, you've got 150 from El-Fiki, you've
5 got 36,000 that's come in from ISNA, now there's 186.
6 Well, that's the number on AHIF-3, I believe it is.
7 You've gotten in about 6,000 bucks before. You have
8 told us in the beginning of January that we should put
9 in 3940 into the account for Chechnya in Saudi. How
10 much money are you responsible for, Mr. Seda?

11 And you can add this up any number of ways.
12 And I encourage you to do so, because what you'll see is
13 if you count the checks that have come in, and if you
14 take the offset from January, you are going to come up
15 186 or 188,000 every time. 2000 apart. Yep. Why are
16 there two documents? One is from Saudi. One is from
17 Ashland. You know that from the first two witnesses who
18 testified. And what you've got is a proper accounting.

19 Now, Mr. Gorder said and Mr. Cardani said in
20 the opening: Follow the money, follow the money. They
21 say that we follow the money, and the money trail
22 disappears at the Al Rajhi Bank account of Soliman
23 al-But'he. And I respectfully submit to you that that
24 is not the case. I respectfully submit to you that the
25 United States government had the ability, and you heard

1 testimony from Agent Anderson and from Colonel Lang
2 about what you should have been provided. The
3 suggestion is made that Mr. al-But'he put 21 grand in
4 his pocket, awash in money in Saudi Arabia, this guy is
5 in charge of this Saudi governmental department, I don't
6 know that he needs to pocket 21 grand, working for a
7 charity that's got 70 million bucks' budget at that
8 time.

9 But from the testimony of Agent Anderson and
10 the testimony of Colonel Lang, you know this: Let's
11 look, please, at Exhibit 731. This is the document that
12 was, at least a version of this, provided to the
13 government by Evan Kohlmann in 2004. Bank account
14 numbers for the al-Haramain Foundation with the Al Rajhi
15 Banking and Investment Company. You know from the Al
16 Rajhi records introduced by the government that they
17 subpoenaed the Al Rajhi Bank for one bank account,
18 Soliman al-But'he's.

19 You know from Colonel Lang and from Agent
20 Anderson, go to the next page, please, that the Al Rajhi
21 Bank and al-Haramain have set up a number of different
22 accounts, each with a different number, that relates to
23 different activities of the al-Haramain Foundation. One
24 is 9889/5, the Asian Committee. It's the committee that
25 deals with general charity, and Zakat, 'aqeeqah, oath

1 expiation, book printing, Dawah, sponsorship of
2 institutions, Qur'an memorization, clinics, sponsorships
3 of orphans and callers, Palestine and Chechnya.

4 You heard that there is a great deal of
5 relevance to this. You heard that the money trail
6 could -- the money trail should have been followed here.
7 You want to know where the \$187,000 for which Soliman
8 al-But'he was responsible went? You need to look at
9 this account.

10 The judge has instructed you that a reasonable
11 doubt can arise from the evidence or the lack of
12 evidence. The government does not have to prove, you
13 have heard, the money actually went to Chechnya. They
14 just to prove the intent. But their suggestion that
15 Soliman al-But'he pocketed 21 grand, which has nothing
16 to do with Chechnya, and I'm not sure how that even fits
17 in here, the answer, I submit to you, is here
18 (indicating). They have the burden. They have the
19 ability to subpoena documents from overseas. They did.
20 They didn't do this. Reasonable doubt there.

21 All right. I'm going to wrap it up. Doesn't
22 mean one minute, unfortunately, but I am near the end,
23 Your Honor. I'm going to wrap it up in this way, the
24 last subject: Pete Seda. What have you heard? What
25 have you seen?

1 Well, you have a number of exhibits that came
2 in through Daveed Gartenstein-Ross. He told you that
3 Pete Seda had a, as far as he knew, a long time desire
4 to lead convoys. Pete, perhaps, a little grandiose.
5 Perhaps wanting to be Anwar Khan. Not quite ever
6 getting there. He wants to be the guy who is doing it.

7 He has Gartenstein-Ross write letters to the
8 Serbs about the situation in Kosovo. You'll see
9 exhibits about efforts, Tajikistan, 910, Exhibit 910,
10 please. Afghanistan, Exhibit 911. You heard from Rabbi
11 Zaslow that in the summer of 2002, Pete Seda took his
12 dream to do something like this overseas trying to do it
13 in Palestine, and turned away at the border.

14 This Chechnya stuff is entirely consistent with
15 that effort. Could he have given the money to Anwar
16 Khan? Yes. Did Pete's ego perhaps prevent him from
17 doing that? Perhaps. But this is his dream. You know
18 he went to New Jersey. You know from Gartenstein-Ross
19 he took a trip there to help the Kosovo/Albanian
20 refugees there. And you know he went to Palestine.

21 Pete Seda and al-Haramain and the accounting,
22 the government has introduced a bunch of records
23 relating to the accounting. If you take out the AQ and
24 Sheeshaan e-mails from the SW series, you find a whole
25 series, and I encourage you to sort them out, put them

1 in a couple of piles. This is this accounting pile.
2 This is the Sheeshaan pile. And take a look through the
3 accounting e-mails in sequence. And what do you see?
4 You see a normal relationship between Pete Seda and
5 al-Haramain. You see a lot of frustration on behalf of
6 the head of the committee, Mr. Al-Shoumar because Pete
7 Seda's records, as Tom Wilcox told you, were a mess.
8 The accounting at al-Haramain was not the best, not
9 because there is any conspiracy, but because it was a
10 shoestring operation.

11 And when you look at the bank balances in the
12 BOA series of bank records, you will see they are often
13 down to 1,000 or less. You will see evidence that Pete
14 has to loan al-Haramain money, al-Haramain Ashland, out
15 of his own pocket, because al-Haramain Saudi isn't
16 getting money in frequently enough. And Al-Shoumar is
17 saying to him, come on, buddy, get with the program. He
18 wants him to use Access -- no, he wanted him to use
19 Quicken.

20 Gartenstein-Ross said, well, I set up Access.
21 When I get there, it was a mess. Well, you know that
22 Quicken wasn't used because you will see in this series
23 of e-mails the Excel spreadsheets.

24 Now, the government makes a big deal, well,
25 Mr. Wilcox never saw this. Mr. Al-Shoumar never saw

1 that. Hold on, guys. Let's get the temporal frame
2 correct. During the year 2000, when these monthly
3 reports go from al-Haramain Ashland to Saudi, the
4 al-Haramain office is using Excel. Yes, they still have
5 the Excel program up and running in 2001. But Tom
6 Wilcox says, guys, Excel don't work for tax purposes.
7 Please use QuickBooks. And they buy QuickBooks. And
8 they set it up, you know, March of 2001.

9 There are no two book systems here. There is
10 nothing being hidden from anybody. There is one set of
11 accounting that al-Haramain Saudi requires, and Pete
12 Seda gives it to them. He doesn't hide from them.
13 There is another set of accounting that Wilcox wants for
14 tax purposes. No hiding. No hiding. Everything is out
15 in the open.

16 And Al-Shoumar is annoyed. Now, maybe Al-
17 Shoumar understood what Mr. Owens understood, that the
18 al-But'he money, the money that he took out, the El-Fiki
19 donation, the Soliman checks, were actually not checks
20 that should have appeared on the al-Haramain Ashland
21 books. Owens told you that. Read this e-mail that
22 Mr. Gorder made such a big deal out of at the end of his
23 argument, the September 29 e-mail, no trail.

24 He is telling him, when you read the entire
25 e-mail, and the entire sequence of e-mails, guys, keep

1 the books straight. Money that is yours, account for
2 it. Money that should not be in your accounts, please
3 don't. And it's entirely consistent with everything
4 that is out in the open that Pete Seda is doing.

5 Pete Seda, Pete Seda, what do you know? I'm
6 going to start broadly. Start in the world. We'll
7 start out there. We'll start with our patriots Long and
8 Lang, who have come in and put their reputations on the
9 line to come into this courtroom to testify on behalf of
10 Pete Seda and to explain to you what they can about
11 these charges.

12 Bring it in a little, the community at large.
13 You heard from the community at large that Pete Seda for
14 his entire lifetime in Ashland has been a public figure,
15 has been a man of peace, has been a bridge builder, has
16 been espousing a moderate and ecumenical view of Islam.

17 You heard Rabbi Zaslow tell you, you know, my
18 job, I kind of think I'm maybe a decent judge of
19 character. Rabbi Zaslow told you exceedingly clearly, I
20 am a Zionist. And if you know anything about Judaism,
21 if you know anything at all about the Israeli-
22 Palestinian situation, which causes so much tension
23 between Israel and the rest of the world, between Jews
24 and Muslims, what you know is that a Zionist is about a
25 fervent a Jew as you can find when it comes to the State

1 of Israel. Aliyah Israel, the Holy Land of the Jews.
2 His view, that's our land.

3 Rabbi Zaslow is a friend and associate, a
4 partner for peace with Pete Seda. Rabbi Zaslow, the
5 Zionist, invites this alleged Wahhabist funder of
6 mujahideen to the dedication of his new temple?
7 Mr. Gorder said look at the actions. Look at the
8 actions.

9 And Pete Seda? Would any Wahhabist, would any
10 believer in extremism in Islam -- as Rabbi Zaslow said,
11 would a leader of Hamas or Hezbollah appear in a temple?
12 Oh, no, no way, no how. Actions speaking louder than
13 words.

14 The community at large. Pete Seda gives
15 charity in Ashland. Pete Seda is there in the Fourth of
16 July parade driving his arborist truck. He's -- someone
17 is riding the camel. I guess he can't be doing both at
18 once.

19 Minister Caren Caldwell knows Pete, rented a
20 space to him in the '80s, before he was able to invite
21 people to his home, or probably he had a home to invite
22 people to.

23 Let's come from them to Patricia Florin, nine
24 years of working. I thought it was pretty interesting
25 when she was asked this morning, well, did you tell

1 Agent Carroll this? And she said, uh-uh, he said that
2 to me. And I submit you saw a very genuine human being
3 here.

4 Let's come closer in. Let's go into the tent,
5 if you will. Into the tent, we brought you Bill
6 Gabriel, 20-some-year high school teacher in Ashland,
7 Oregon, kid -- responsible for kids in Ashland, brings
8 his kids up to the tent. Interacts with Pete Seda. I
9 don't think that he would be exposing his kids to a
10 fundamentalist Muslim.

11 The government says, well, wait a minute, you
12 know, there's this other side of Pete, so let's go into
13 the prayer house. We brought you just a couple of
14 people because I think they are a good representative
15 sample.

16 Nabil Taha, Ph.D., civil engineer. What type
17 of people pray in the prayer house? Well, you have what
18 Daveed Gartenstein-Ross called some of the redneck
19 Muslims. Pete, his friend David Rodgers, Rob Brown,
20 John Dunn, the boys who went out to Sprague River, lived
21 on the land, yeah, they hunt. They have guns. Pete
22 Seda has guns. So what? You heard Dave Rodgers. I'm
23 an Oregonian. I learned to shoot before I learned to
24 walk, or, you know, whatever it was that he said.
25 That's Oregon. That's our state. You have those guys.

1 You have students. You have teachers. You
2 have engineers. You have a broad spectrum of the
3 Islamic community. You have the big tent, if you will,
4 inside the prayer house.

5 Nabil Taha likes to pray with his wife and
6 daughters. They come to Friday prayer together. Some
7 of the other people in the prayer house believe in the
8 separation of the sexes. Not Nabil, not Mr. Taha and
9 his family. All right, the curtain is there, he's
10 respectful of that during the service. And as soon as
11 it's over, he pulls it aside. And what does Pete Seda,
12 the supposedly conservative Wahhabist say? Nothing.
13 It's fine by Pete.

14 You are inside the prayer house, folks. You
15 are inside the prayer house through the eyes of engineer
16 Ph.D. Nabil Taha.

17 Daveed Gartenstein-Ross, well, I objected at
18 one point in the argument because he said something
19 about he was chastised. You recall, the chastisement
20 was not from Pete Seda. The chastisement was from
21 someone else in the house. And you recall, I hope, that
22 he said that when Pete spoke to him about it later,
23 which he did, his word was conciliatory.

24 Yeah, are there guys there who believe in a
25 more strict practice of Islam than Pete? Yes. Are

1 there guys there or women there who believe in a more
2 political practice of their religion? Yes. Are there
3 people who are less conservative? More secular? More
4 Americanized? Yes. So what? There is no dark side.
5 This is not a cell of people who are terrorists.

6 Dave Rodgers. I hope you saw Dave Rodgers as a
7 genuine human being. I hope you saw Dave Rodgers as a
8 guy -- yes, he's a friend of Pete Seda's who came in and
9 told you from the heart about himself, about his
10 evolution as a human being, about his life with Pete.
11 He told you about the prayer house. All right.

12 Sheikh Hassan shows up sometimes. Some people
13 like it. Some people don't. Sheikh Hassan comes and
14 goes. Abdi Guled leads the prayer. David Rodgers leads
15 the prayer. Pete Seda leads the prayer on occasion. He
16 doesn't like to do it. It's a big tent. There are
17 Sunni. There are Shia. There are Sufi. Islam you
18 learned, if you didn't already know, is a broad
19 religion. And that prayer house in Ashland, Oregon, was
20 full of the diversity of Islam.

21 Pete Seda is the guy in charge. Pete Seda is
22 respectful of the way in which all people who come there
23 want to practice. Were there things that were said that
24 might have been offensive? Yeah.

25 I don't think that Rabbi Zaslow would have hung

1 around with Pete Seda if Pete Seda was anti-Semitic.
2 And I don't think that if Pete Seda were anti-Semitic,
3 he would have hung around with Rabbi Zaslow.

4 Gartenstein-Ross and the Kosovo donation,
5 please look at the exhibits. You have in evidence the
6 1200 series, the beginning of the 1200 series. And what
7 you see is on April 2nd of 1999, there is a request for
8 aid faxed in. Ms. Wells, I don't recall the number of
9 it. Do you have it handy or not? It's 1200 something.
10 Forget it. You'll find it. 1200 something. Request
11 for aid, has a fax line at the top. It comes in on
12 April 2nd. It comes in on the day that Gartenstein-Ross
13 writes the check, \$100 check.

14 It comes in, Gartenstein-Ross says, well, maybe
15 I forged Pete's signature. Oh, Pete couldn't have been
16 there. Well, maybe it was mailed later after he got
17 back. Read his timesheet. Mailed Kosovo check.

18 Is he confabulating? Was something said about
19 Kosovo? You bet. And you have the brochures, the
20 fliers, Kosovo aid, and you can match up the date, the
21 check, Pete's signature. This isn't about mujahideen.

22 Why does he say that? I don't know. He has a
23 terrorism business. Does it help him if he's been in a
24 terrorism house and to talk about it as a terroristic
25 place? Not going to get much credibility if you're

1 describing the place you're living as a big tent in
2 Ashland, Oregon, full of people from the full range of
3 diversity of Islam. I don't know. But look at the
4 physical evidence. Look at the physical evidence.

5 We've been in his house. Bobbie Cabral was
6 asked, hey, did things change when al-Haramain came?
7 And the government expected, oh, yes, for the worse.
8 Well, no, no. Was there any call for money to
9 mujahideen after the Hajj? I submit not. I don't think
10 that that is reliable. Bottom line is it is contrary to
11 everything else you know about Pete Seda.

12 This is the man, and please look this up, this
13 is the man who writes an agreement against violence,
14 602-B, 1998. He knows the first Trade Tower bombing
15 occurred in '93, Sheikh Rahman had been charged, was
16 probably in prison then in New York. He knows about the
17 potential for violence. And he writes a charter that
18 Dave Rodgers signs that says that ain't us.

19 Please take a look at Exhibit 805-B, April of
20 2000. Pete Seda taking, what I submit, is probably a
21 pretty significant risk to himself writes to Sheikh
22 Aqeel, and you'll see the letter, and you can see the
23 call for fatwa against terrorism. That's Pete Seda.

24 You put all this together, ladies and
25 gentlemen, you put together the physical evidence, you

1 put together the testimony, you put together the
2 testimony from the world, from the international
3 terrorism experts, the colonel and the doctor who
4 protect this country, you bring it into the community,
5 you bring it into the tent, you bring it into the house,
6 you put that with the physical evidence that the
7 government has taken from the house, you put it together
8 with the physical evidence that the government took from
9 the house that we presented, and I submit to you that
10 what you find is nothing on which you can base a verdict
11 of guilty of either count.

12 I submit that you find that the government is
13 presenting you inference, innuendo, conjecture,
14 speculation. The government is presenting you a theory,
15 and that the reality of this evidence is evidence that
16 should cause you to say that the government has utterly
17 failed in presenting evidence sufficient for you to
18 return a verdict; that the evidence proves not only that
19 Mr. Seda is not guilty, but that the evidence has
20 established that he is a decent human being, a good
21 person who believes in peace, and did not conspire with
22 anyone, who acted openly at all times, and is innocent
23 of these charges.

24 I thank you for your time, for your attention,
25 for listening, for bearing with me.

1 Thank you, Your Honor.

2 THE COURT: Members of the jury, we'll take a
3 five-minute health break, and then we have one more
4 short argument.

5 (Recess: 2:50 until 2:58 p.m.)

6 THE COURT: We'll go back on the record.

7 Members of the jury, Mr. Cardani, under the
8 law, is entitled to rebuttal argument. This is that
9 argument. Go ahead.

10 MR. CARDANI: Thank you, Your Honor. Members
11 of the jury, bear with me for about 15 or 20 minutes,
12 and then the case will finally be yours. So one more
13 lawyer gets to talk.

14 A few points about Mr. Wax's closing argument.
15 We listened to him for over two hours. Unless I didn't
16 hear it correctly, he covered an awful lot of the case,
17 but I didn't hear him mention the Noble Qur'an.

18 The Noble Qur'an is the defendant, after he
19 started working for al-Haramain, sending to U.S. prisons
20 around this country, in the thousands, 10 to 15,000
21 prisoners, violent people serving time, getting junk
22 like this from al-Haramain saying jihad is an obligation
23 for Muslims. Talk about people prone to suggestion.
24 Prisoners.

25 Mr. Wax talks for two hours and you don't hear

1 anything about that. Nor do you hear anything about
2 this. You've memorized some of this book, members of
3 the jury. *Islamic Guidelines For Individual and Social*
4 *Reform*. This was a special book at al-Haramain. Not
5 everybody got this. The only people who got this, and
6 you heard it from the witnesses, were the ones who
7 passed the test.

8 You had to be not only a believer, but you had
9 to pass a test. Daveed Gartenstein-Ross, it's one of
10 his responsibilities, to put this book -- I'm sorry --
11 interviews into the prisons by the thousands.

12 The defense witness yesterday told you that as
13 well, Mr. Rodgers. And back they came into al-Haramain.
14 It was a huge project sponsored by al-Haramain Saudi
15 Arabia with their Wahhabi, violent jihad propaganda.
16 They get a foothold in the United States. Pete Seda
17 becomes their man. And out goes this hateful, crazy
18 jihad stuff into prisons.

19 But not everybody got this. Why didn't
20 everybody get this? Because you can't talk openly about
21 this kind of stuff because you may get in trouble. So
22 you got to be quiet about it.

23 And, yes, members of the jury, there are two
24 sides to Pete Seda. The side that when the cameras are
25 on, when the lights are bright, is the smiling, peaceful

1 face of Islam in southern Oregon, and wherever else he
2 can market it. But turn those lights off, turn the
3 cameras off, and get down into room X at 3800, and
4 that's where it really starts happening, because it is
5 there that he is serving the bidding of his sponsors
6 al-Haramain in Saudi Arabia, the ones that are funding
7 his ability to exist as an Islamic charity in the United
8 States.

9 Two hours we heard from Mr. Wax and nothing
10 about this stuff. Why is that? Why doesn't he talk
11 about the fact that we have Mr. Seda doing direct fund-
12 raising for the mujahideen? Daveed Gartenstein-Ross and
13 others were asked to help sponsor, at Mr. Seda's behalf,
14 a mujahideen fighter to go to Kosovo. Gartenstein-Ross
15 throws money in the hat. And off goes a wire transfer
16 of some sort to Albania.

17 Barbara Cabral tells you she went to the Hajj
18 with Mr. Sedaghaty, big international flight, a big
19 pilgrimage, sponsored by who? al-Haramain.

20 On the way out of the country, Mr. Seda says
21 let's give our money to the mujahideen. No mention of
22 that from Mr. Wax. Why is that?

23 The Springfield building, I didn't hear much
24 about that at all. Mr. Seda was in the middle of the
25 purchase of the Springfield building. As Mr. Gorder

1 told you this morning, it was one of the two big events
2 in the year 2000. He knew exactly how much that
3 building cost. He approved the deal.

4 If you look in those files, the Mr. Kanan
5 files, Pete approved the deal. He made the decision.
6 He's working with al-But'he. He's working with
7 al-Haramain. And the money comes over and he buys it.
8 He knows all about it. Why is that important? And why
9 didn't they talk about it?

10 Because Pete Seda knows exactly to the dime,
11 members of the jury, how much that building cost.
12 \$375,000. He knew how much that they needed to close
13 the deal, 318,000 and change. He gets the money. He
14 sends the cashier's check off. And the deal is closed.

15 Why is that important? Because when the
16 accountant Wilcox comes and asks him about the purpose
17 of some of these funds, rather than just be forthcoming
18 and say, here are the records that I have in my
19 possession from Mr. Kanan, which he had, he withheld
20 those records from his own accountant, not telling him
21 what he knew about the transaction.

22 Why is that important? Because Mr. Seda told
23 Mr. Wilcox, you know this very well by now, that that
24 check for one-hundred and thirty-one three, that is so
25 important in this trial, went into the Springfield

1 building.

2 Why is that? Because Mr. Seda had a motive, a
3 motive to conceal the truth about the transaction.

4 Now, what you did hear from Mr. Wax quite a bit
5 in two hours is what I'm going to call the blame game.
6 Mr. Seda has been indicted. Mr. Seda is here before
7 you. His conduct, his activities are before you.

8 Now, we've heard the defense spend all kinds of
9 time, Mr. Wax talks about, well, Barbara Cabral, she's a
10 liar, can't rely on her; Daveed Gartenstein-Ross, liar,
11 can't rely on him; Colleen Anderson didn't do her job
12 right, only got one account in Saudi Arabia, deficient
13 investigation. Mr. Gorder misrepresents a bunch of
14 stuff this morning to you, so Mr. Wax says,
15 respectfully. And, oh, yes, Mr. Wilcox. And Mr. Owens,
16 who they hired nine years after the fact to try to
17 justify the fact that an Islamic charity in the United
18 States, attempting to fund \$150,000 in an overseas
19 transaction, for whatever purpose, for blankets, for
20 food, for bombs, concealed it on its 990.

21 I ask you this, members of the jury, if
22 everything was on the up-and-up to Mr. Seda and his
23 organization, why not broadcast to the world what a
24 wonderful thing he did in getting \$150,000 moved into a
25 war zone for humanitarian relief? Didn't do that.

1 Nobody knew, not many people. A few insiders knew the
2 real truth. But nobody could know the truth because he
3 had a motive to conceal because Islamic charities can't
4 be doing this kind of stuff.

5 If you are sending money overseas, you know
6 there is a way do it, you heard that from Mr. Khan. The
7 annual report of the Islamic Relief Organization is in
8 evidence. Take a look at it. It's impressive. This
9 group raises \$100 million a year for legitimate refugee
10 relief, people in need, flood victims, war zones,
11 displaced -- true displaced refugees and children.

12 We have vehicles around the globe, members of
13 the jury, we love to give charities charitable dollars
14 to fund these organizations. Khan's organization does
15 it the right way. And you heard what he said. You
16 know, look at the report. They collect money in. They
17 keep all kinds of records. Records have to be kept.

18 Why are records so important? Because this
19 kind of stuff once it's out there, it can disappear into
20 the Never Never Land of terrorism. This is how wars are
21 fought. The mujahideen are not sponsored by countries.

22 It's not like Russia who pays its soldiers with
23 rubles, government money. It's not like the American
24 Army being paid with dollars. The mujahideen are
25 freelance fighters that go around the global to promote

1 their terrible version of a religion that has very
2 peaceful elements of it, but their version of hatred, of
3 killing people that don't believe in their religion,
4 they have all these crazy views about women. This is
5 how they do their stuff. Cash. And once cash is
6 released into the mainstream, it's gone.

7 So let me talk a little bit about the defense.
8 In the two hours that Mr. Wax was speaking, I counted
9 about an hour devoted to the testimony of one man. Tom
10 Wilcox. What do we know about Tom Wilcox? One-
11 accountant firm down in Medford. Wasn't a battery of
12 accountants. Lots of help. I think there was one
13 accountant and one assistant throughout the entire time.
14 Four-hundred clients or so during that time. It's not
15 like al-Haramain was the only client. He has got a lot
16 of stuff going on.

17 What else do we know? That Mr. Seda contacted
18 him at the end of 1999, the very end of 1999. And the
19 paperwork is finalized in early 2000. The agreement
20 between Mr. Seda and Mr. Wilcox envisioned that
21 Mr. Wilcox would spend a handful of hours in doing the
22 forms, 990 and the 1023, because, for small charities in
23 the United States, that's the norm. It's pretty easy.
24 If you are doing things on the up-and-up and the
25 paperwork is prepared by the client, it's pretty easy

1 stuff. Mr. Wilcox had done several of these things
2 throughout his long accounting career. So the
3 expectation was a few hours.

4 It's not what it turned out to be because the
5 paperwork was in no way, shape, or form, normal. And
6 Mr. Seda and his organization was late in getting
7 information to Mr. Wilcox. And the information that
8 came in, as we know now, was problematic.

9 We also know that by the time Mr. Seda got
10 around to dealing with Mr. Wilcox, the 1998 return was
11 already late. The 1999 return was due in a few months.
12 And our 2000 return, October of 2001.

13 My point is they're already under the gun. He
14 comes into the accountant late. There's a lot of flurry
15 of paperwork that needs to be done. Some requests for
16 information. Mr. Wilcox has got 400 clients he's
17 dealing with. It's the end of the year. 1040s have to
18 be done. He's under the gun.

19 Now, again, one hour of testimony -- of closing
20 argument spent on the testimony of one man. The Tom-
21 Wilcox-is-a-liar defense, it's a big one here. Trying
22 to get your eye off of the ball of Pete Seda and his
23 actions talking about the other people and displacing
24 blame. Tom Wilcox is a liar.

25 Now, we know that the defense got everything.

1 Mr. Wilcox had a suitcase of material. Three binders,
2 1,000, 5,000, 10,000, whatever the number of pages were,
3 it was a lot; computer discs full of reams of other
4 material. This was supposed to be a few hours. It
5 turned into much more than that. Lots of paper was
6 generated. The defense gets all of it. The QuickBooks.
7 The audit trails. The billing records. Enough to make
8 your eyes glaze over. All of this stuff, the billing
9 records, the returns, everything is given to the
10 defense.

11 They pour over it. They hire expert after
12 expert after expert, hundreds and hundreds and hundreds
13 of hours, a multiplying factor of probably 10 or 20 over
14 what Mr. Wilcox did in the entire time he worked for
15 Mr. al-Haramain, I suggest to you. Pouring over his
16 work. Why? To try to make him be a liar when it came
17 time for his testimony to you.

18 So how did they do that? Mr. Wilcox agreed to
19 sit down with the defense, as he did with the
20 government. You heard Mr. Matasar, Mr. Wax had a
21 lengthy meeting with Mr. Wilcox. Does that sound like a
22 liar? Does that sound like someone who has something
23 that he's trying to hide?

24 He is what he is, members of jury. Is he the
25 world's best accountant? I submit to you negative.

1 He's a small Medford-based CPA with 400 clients. He
2 gets a contact from a charity. He does charity work
3 before. He says it's going to be a few hours a year.
4 He agrees to do it.

5 Turns over all of the records to the defense
6 and out it goes. So they pour over the records. And
7 they bring in a full-blown support team. With
8 QuickBooks people to look at every nook and cranny
9 there, Mr. Cone; accountants; and Mr. Owens, the big
10 lawyer from Washington D.C. Dig into everything. And,
11 I submit to you, find a reason to blame other people, to
12 get your eye off of the ball, the defendant, Pete Seda's
13 actions.

14 So that work is done. Hundreds and hundreds
15 and hundreds of hours. And do they find mistakes? Yes,
16 they do. But use your common sense once again, members
17 of the jury. Does any accountant get everything right?
18 Everything? Every detail? Does anybody in life get
19 everything right? We all make mistakes. Even if we're
20 trying to do our best, even if someone is paying us lots
21 of money to do work for them, we make mistakes. Does it
22 make us liars when we take the stand? No. He made
23 mistakes.

24 We're not here to defend those mistakes. He
25 made mistakes. He told you he made mistakes. And, yes,

1 on the QuickBooks thing, did he initially tell Colleen
2 Anderson that al-Haramain provided him with the
3 QuickBooks schedule and this building account already
4 done? Yes. But when shown the records, which he didn't
5 have access to at the time, several years after this all
6 went down, yes, his memory was refreshed. Yes, I was
7 the one who coded this and put those checks in there.
8 Based on what? Conversations with my client.

9 Is that so normal -- I mean, abnormal, members
10 of the jury? Does he have a motivation to conceal, to
11 lie about these things? Is it not normal that when you
12 do something and you are mistaken, and we have all done
13 that, and then later shown something else that refreshes
14 our memory, perhaps by our spouse, yes, I made a
15 mistake. Okay.

16 Wilcox took the stand, members of the jury, and
17 he told you he made a mistake. It's not like he's
18 trying to hide anything. In all of his glory, Wilcox
19 got up and said, yes, I made some mistakes.

20 But I submit to you, members of the jury, that
21 on the issues most important to this case, he was
22 telling the truth.

23 Mr. Cone, their expert, spent 300 hours or
24 whatever it is. CPA. When I asked him, you saw this
25 check come in, you got the May 14th version of the

1 QuickBooks, comes in, we all agree on that. We all
2 agree that the \$131,000 check is not coded properly from
3 al-Haramain. It's missing. That's a huge check. It's
4 a small charity. That's gotta stick out like a sore
5 thumb. It would to Mr. Cone. And it did to Mr. Wilcox.
6 So what did he do? He contacted the client. Because
7 who knows best about the true inner workings of the
8 transaction other than the client?

9 Now, sure, you want to rely on information, you
10 want to see computer records, you want to see hard
11 copies and all, but it wasn't there in the additional
12 version -- the original version of the QuickBooks. So
13 he had to ask the question. To who? Mr. Seda, his
14 client.

15 Now, did that occur during a phone call on
16 March 3, 2000? Did that occur in an e-mail on June 21,
17 2001? Did that occur when they saw each other at the
18 grocery store on May 17, 2001? Who knows. But what
19 Mr. Wilcox told you is, I talked to Pete. Why? Because
20 the 131 had not been taken care of in the books and
21 records properly, and I had to account for it to do my
22 job in preparing the 2001 return -- 2000 return, excuse
23 me.

24 Now, the billing records of Mr. Wilcox are in
25 evidence. They show that the billing records occurred

1 for activity Mr. Wilcox did May 30th, June 13th, June
2 14th, September 19th, September 20th, 24th, 25th,
3 October 1st, October 2nd. This was all billings by
4 Mr. Wilcox to Mr. Sedaghaty for work that he was doing
5 on the run-up to the 2000 return. Our return.

6 So you've got all of these contacts that are
7 being billed. And then they try to nitpick. Well,
8 which one of these involved phone calls? Which one of
9 these involved substantive work? Which QuickBooks
10 schedule was in play for this? Members of the jury,
11 this is nine years ago. To test someone's memory like
12 that, how can any of us be expected to remember with
13 that kind of intricate detail what we did nine years
14 ago, let alone one year ago or even one month ago?

15 Mr. Wilcox took the stand and told you that he
16 talked to Pete Seda. And what did Pete Seda say about
17 the check that's very important here, this one-
18 thirty-one three? Funds used for the Springfield
19 building.

20 Now, we all agree there was no Springfield
21 building account in these QuickBooks things, so one had
22 to be done. Mr. Wilcox created this and put the check
23 and others into the Springfield account based on
24 conversations with the defendant.

25 This money went to the Springfield building

1 purchase. He creates this thing. And it adds up to
2 \$461,000, I believe. And then Mr. Wilcox told you, I
3 showed this to my client, Mr. Seda.

4 Now, keep in mind, Mr. Seda, the defendant,
5 knows we paid \$375,000 for this building. Yet he has
6 shown a building schedule that says \$460,000. Tilt.
7 Doesn't work. Add math. Note to self. Talk to
8 accountant. Tell him something is wrong. Didn't
9 happen.

10 I believe Mr. Wilcox, in response to my
11 question, I said, did you stick this under his nose?
12 Did he actually see this? Yes. We talked about it. I
13 remember the conversations. I can't tell you if it was
14 on this date or this date or this date. We talked about
15 it. Here are your billing records. Yes, it could have
16 been this date, could have been that date, I don't know.

17 Was he lying to you when he told you that,
18 members of the jury? Did he pull this out of whole
19 cloth? What's his motivation to lie to you? Is he
20 running an Islamic charity -- charities that are under
21 intense scrutiny for throwing this kind of stuff around
22 the world to fund mujahideen fighters? No. He's a solo
23 practitioner in Medford, Oregon, trying to make ends
24 meet with 400 other clients.

25 Now, the \$21,000, likewise, it comes in and it

1 is reported. It's reported in this thing called a
2 reimbursed expense. A big red flag for accountants like
3 Mr. Cone acknowledged yesterday. You gotta deal with
4 that. So it comes in looking like it -- it's just
5 sticking out, \$21,000. We know that was our cashier's
6 check for al-But'he, that was funds used to buy
7 al-But'he.

8 Did Mr. Wilcox get the right information to
9 Mr. Seda when he asked him about this one? No. Didn't
10 mention the Chechnya transaction. And by the way, if
11 Mr. Seda had truly acted in his mind on the up-and-up
12 properly, he would be telling the world, including Tom
13 Wilcox, look what I did, I fed refugees. I took care of
14 the needy. I, Pete Seda, got \$150,000 from an Egyptian
15 guy, and I got it into a war torn area with my fellow
16 Muslims in need, and I did good.

17 And, Mr. Wilcox, I told you before, I think I'm
18 under scrutiny by the IRS, by the government, I think
19 I'm going to be audited, keep my books and records
20 clean. If that was his mindset, why not tell Mr. Wilcox
21 all about this? It was a huge deal in his life at that
22 time, this money thing. He never told Wilcox about the
23 Chechnya transaction.

24 This return, members of the jury, IRS-1 is the
25 subject of the tax count. It's long. I've looked at it

1 quite a few times. The word Chechnya is nowhere in
2 here.

3 So if things are on the up-and-up, Mr. Seda,
4 tell your accountant about it. Tell the world about it.
5 And this 990, by the way, does go to the world. Can't
6 do that. Why? Because he knows he's up to no good. We
7 caught him in a transaction involving an Islamic charity
8 that can't do what he was trying to do, and we caught
9 him. Took a lot of work. Took a lot of effort, record
10 requests, but we caught him, and that's why we're here
11 today.

12 Now, Mr. Wilcox, again, testifies. And they
13 have all the information. They've done all of the run-
14 up and the investigation on him. And they put him -- we
15 put him on the stand. He told you, in essence, what I
16 just told you. And then he goes on cross-examination.
17 A full court press. To do what? To try to make him
18 appear as a liar to divert your attention and blame it
19 on the accountant rather than the client who has given
20 the accountant bad information.

21 You cannot expect an accountant to file an
22 accurate return if you are providing inaccurate
23 information to your return preparer. It's as simple as
24 that.

25 He did make mistakes. A \$4,000 mistake, the 1

1 percent error mistake, a few other things that the
2 defense talked to you about, Mr. Wax repeated. I submit
3 to you that with all of the time and attention that they
4 flyspecked his work, his caseload of work, things like
5 that are going to happen, and they did. He told you
6 about it. He didn't run from them. He admitted it.
7 Yeah, that was my mistake. That's not on Pete. That's
8 not Pete's fault.

9 Does that sound like a liar to you? I made
10 this mistake here. I made this mistake here. That's
11 not on Pete. Yep, you're right.

12 He even admitted a mistake that he didn't make.
13 The defense thinks they get this big deal with that
14 \$2,000 Gartenstein check. Why is that so important? It
15 seems like a little thing. But sometimes little things
16 mean big things. Daveed Gartenstein-Ross told you that
17 the defendant gave him a check for \$2,060. It was for
18 salary. It wasn't for a computer. But that's what
19 Mr. Seda wrote on the computer -- on the check. Mac,
20 purchase of a Mac or something like that. It was in
21 1999. And we know the check was dated by Mr. Seda
22 wrong. It was a '99 check. And the defense has this
23 thing. And Mr. Gartenstein-Ross tells us that it was a
24 salary check, not a -- I'm sorry, it was a payroll check
25 improperly listed as a computer purchase that never

1 happened. And that Mr. Sedaghaty was just trying to
2 avoid payroll taxes. It's a little thing about intent.

3 What's he thinking about when he's dealing with
4 the IRS? Is this someone who is trying to be clean?
5 Keep the books clean? IRS is going to scrutinize me?
6 No. It's an anti-IRS sentiment.

7 So he doesn't want to pay payroll taxes. He
8 lies on the check. And Gartenstein-Ross tells you about
9 it.

10 Now, why do I bring it up here? Because Wilcox
11 is hit with this check. They think they gotta big
12 gotcha. Well, if you thought this thing was a computer
13 purchase, why is not in the 1998 information? Which we
14 know they've poured over with a fine-tooth comb. And it
15 wasn't in the '98 stuff. So Wilcox eats it. I guess I
16 made a mistake.

17 But then on redirect, we show him the 1999
18 records, and there it is. He did rely on his client's
19 information when he said, what's this check for? And
20 Pete told him it was for a computer purchase, and he
21 makes an appropriate entry in the 1999 records. And
22 he's shown that. So he even admitted a mistake that he
23 didn't make.

24 Does that sound like -- to you like someone
25 who's trying to lie and pull one over on you? No.

1 But on the big transactions, folks, keep the
2 eye on -- keep your eye on the ball, please. The
3 Springfield building purchase, when Mr. Wilcox learned
4 about it, he wanted supporting records. Never given to
5 him. And yet he -- Mr. Seda had them. Concealment.

6 And on the 131 and the 21 that Wilcox found
7 out, the big checks he's got to deal with, talk to his
8 client, concealment and lies at this point. Concealment
9 and lies from your client are inevitably going to end up
10 in a false return. The return is false in the many ways
11 that we told you.

12 Lines 1, 22, and 57, you've got it committed to
13 memory by now, are false. Line 1 is false because the
14 \$121,000 was backed out of contribution income by Wilcox
15 because of the lie by Mr. Seda to him about it being
16 refunded to the donor. That was what the client said.
17 That's how it was treated. Line 1 is false.

18 22 and 57 has to do with the money going out
19 because the client tells the accountant that it's money
20 that went into the building. The accountant takes the
21 information, puts it in, and it ends up affecting
22 falsely lines 22 and 57.

23 Now, when you deliberate on this return, those
24 are the three lines in the indictment. And you have to
25 agree that a particular line on the return is false to

1 convict him beyond a reasonable doubt. But that's not
2 all you have.

3 You can look at the whole return. And there
4 are other parts of that return that are false. And if
5 there are other parts of the return that are false, it
6 makes more sense that the other -- that the lines that
7 are charged are false as well.

8 Chechnya should have been bull horned in that
9 return, because there's a section that talks about
10 humanitarian relief, statement of functions. And there
11 is a \$24,000 entry that has nothing to do with Chechnya.
12 And this is where the money should have gone if
13 everything as on the up-and-up. There would be no
14 motivation to conceal and lie.

15 The \$21,000 that went to al-But'he, he's an
16 officer of the corporation, whatever that payment was
17 for, if it went to the officer, it should have been
18 reported. It was not. Another falsity in the return.

19 The return was sent to the client,
20 Mr. Sedaghaty, and he signed it and off it goes. But
21 the thing is, they say, you know, he don't -- Pete's not
22 a detail guy, and he may have just signed it, and off it
23 goes, well, okay, but here is the thing on that. If you
24 know in your mind, as he did when he was dealing with
25 Wilcox, that he had concealed the truth from him about

1 the transaction overseas, then the return had to be
2 false in Mr. Sedaghaty's mind, because the correct
3 information was never given to him. So when he signed
4 that return, okay, he might have not looked at line 1
5 and said, oh, my, that's false; 22, wow, that one's not
6 right, he knew the return was false, members of the
7 jury, because the essence of the most significant
8 transactions had been mischaracterized. Springfield
9 transaction and the \$150,000 that we have here.

10 Before I leave Wilcox, when we hire
11 accountants, we heard testimony that it is not an
12 adversarial relationship. You're not hiring an
13 accountant to challenge you on the accuracy of your
14 information. To the contrary, it's a trusting
15 relationship.

16 Now, there may be some verification
17 requirements on the accountant on occasion, but you
18 basically have to accept the client's statement, not
19 blindly. You should do things like maybe ask for an
20 escrow file. But you have to, at some point, accept
21 your client's word. If you go after your client and
22 say, I don't think you are telling me the truth on this,
23 how long are you going to have that client? Doesn't
24 work that way.

25 Mr. Wilcox made mistakes, but I submit to you

1 he was credible in eating those mistakes and telling you
2 the truth.

3 Mr. Owens, here is the next part of the blame
4 game. Well, the return is not false, but if it's false,
5 it never should have been filed in the first place.
6 That's a clever lawyer thing. It's a trick. Don't fall
7 for it. Nine years after this transaction, members of
8 the jury, they hired this guy that was the head of
9 Exempt Organizations, and, yes, he did some impressive
10 work with the IRS, 25 years of service. He spends a
11 pile of time, associates spend a pile of time digging
12 through these issues, and they come up with something
13 that I submit to you is a smokescreen. This should have
14 never been reported in the first place. Well, why is
15 that, Mr. Owens? Because it was a conduit, an agency
16 relationship. Well, what's that?

17 Well, when a tax exempt organization here gets
18 money but it's not really theirs, they are just a
19 vehicle to send it on to somebody else, a conduit, and
20 there is an agreement for all of this, then it's not a
21 reportable transaction. So this transaction, or at
22 least most of it, never should have been reported in the
23 first place, so Mr. Owens says.

24 Well, members of the jury, where is the
25 agreement? Mr. Gorder asked you this morning, I'll ask

1 you again, we've heard from Mr. Wax, where is the
2 agreement that makes this that, makes this a boom-boom
3 thing, that Mr. Seda had no control? You don't see it
4 because it didn't exist.

5 Mr. Sedaghaty, when he got this money, if it's
6 a true agency conduit, he should have spent \$15, like
7 El-Fiki did, and say, okay, boys at al-Haramain, I got
8 the money. All right, what should I do with it? Okay,
9 send it to Saudi Arabia, all right, I'll go down to my
10 banker, Ms. Ingram, 15 bucks, send that money to -- wire
11 transfer to Saudi Arabia. And we know he's done that
12 before. They talk about cash being normal ways of
13 moving money and things of -- like that, attempting to
14 justify this screwy transaction that I'll get into in a
15 moment.

16 Members of the jury, you have two wire
17 transfers before you in the Bank of America records
18 where Mr. Sedaghaty himself wired money internationally
19 for, like, 10 or 20 bucks. He knows how to do it. And
20 that's the way it should have been done if this conduit
21 theory was real. But that didn't happen.

22 The money stayed here in Oregon under the
23 control of Mr. Sedaghaty. He's the only al-Haramain guy
24 here that's on the account. And what happened at that
25 point? The seeds of a conspiracy, a secret, clandestine

1 plan with Mr. al-But'he, Mr. Sedaghaty, Shoumar enters
2 the picture later on. And what's the plan? The plan
3 is, after Mr. Sedaghaty treats this money as his own and
4 makes a couple of unsuccessful attempts to contact other
5 organizations, including Mr. Khan, a legitimate
6 organization, if Mr. Sedaghaty had taken Mr. Khan up on
7 his solicitation, we're not going to take you into the
8 country in a war zone, al-Haramain, if that's who he was
9 talking to, he doesn't even know who he was talking to,
10 but he thinks maybe it was someone from Oregon, he
11 thought it was somebody in Portland. But members of the
12 jury, if Mr. Sedaghaty had contacted this organization
13 and if this Mr. Khan convinced them to send the money,
14 as a lot of other people do, to the tune of 75,
15 \$100 million a year, give it to us, we'll take it in, we
16 do proper record keeping requirements, we do our
17 responsibilities. We're sponsored by the Russian
18 government in Ingushetiya, we'll do it the right way.
19 And in their pamphlet, they do.

20 Did Mr. Sedaghaty do that? No, he didn't. He
21 held on to the money, and he tried to direct it other
22 ways. It destroyed this Owens' conduit theory. If it
23 was really a conduit, that should have been kept off of
24 the books of the 501(c)(3), then it should have been
25 just simply wired away because Mr. Sedaghaty would have

1 no choice but to do otherwise.

2 And some of those contacts, incidentally, were
3 in the name of the Qur'an Foundation, not al-Haramain.
4 Why is that? Why didn't he always deal with it as
5 al-Haramain? And he had other people do it. Perhaps
6 because al-Haramain was developing a pretty bad
7 international reputation as being a problem in the area
8 of terrorism, funding terrorism.

9 How do we know that? The 9/11 report, there is
10 a whole chapter on terrorist financing. How did these
11 things happen? Terrorist financing. Things cost money.
12 People need to live that plan on doing bad things.
13 People need to eat. People need shelter. People need
14 arms. They need money.

15 So a big old study is done and al-Haramain is
16 chosen as one of the poster childs (sic), witnesses
17 identified that. So when Mr. Sedaghaty is reaching out
18 to these organizations, perhaps he knows that
19 al-Haramain has some stain on it.

20 And remember that conversation that Daveed
21 Gartenstein-Ross told you about about east African
22 embassies blowing up? Lots of people killed.
23 al-Haramain is associated with that on a TV program.
24 Mr. Sedaghaty talks to al-But'he saying, we didn't have
25 anything to do with that, did we? You heard the

1 testimony, words to the effect, we have many people
2 working for us. Wow, there's a denial for you.

3 Now, before I leave Mr. Owens, he told you he
4 runs a shop called Exempt Organizations, did when he was
5 with the IRS. It's what Mr. Wooten does up in Seattle
6 on a day-to-day basis. They care about how charities
7 get their money and spend their money. They have to.
8 That's their job. If you're going to be tax exempt, you
9 gotta do good things with your money. And this Form 990
10 is the primary vehicle for us to know what you're doing.
11 And it's also the primary vehicle for what your donating
12 public, because this goes on the Internet, you gotta be
13 on the up-and-up.

14 Mr. Owens admitted that no matter what, this
15 conduit theory, agency theory, whatever, no matter what,
16 you can't lie to the IRS on a 990. And if you do, it's
17 a very important thing when it's talking especially
18 about an overseas transaction involving 130, \$150,000.
19 It's a big deal.

20 So what the defendant did through his deceptive
21 acts with Mr. Wilcox and engaging in this screwy
22 transaction is he concealed information from the very
23 organization that we here in the United States rely on
24 to make sure that things like this don't happen
25 (indicating) with tax exempt charities in the United

1 States.

2 Now, Mr. Owens, he's looking at a lot of
3 organizations, he has to decide which ones to audit,
4 which ones not. Well, how do you get your information?
5 Well, the 990. We get -- they gotta tell us what money
6 comes in and where it's going.

7 Well, if you learn that an organization got 150
8 and masqueraded it into a building purchase, might that
9 get your attention? Well, the form might not, in and of
10 itself, the line 57 thing, might not jump out at us, but
11 if the information came to us that it was a clever
12 design to bury it into a portion of the tax return, you
13 bet we'd be curious about it. It would be an audit, and
14 probably a lot worse, if it came out that this was an
15 intentional act to masquerade and disguise \$150,000
16 transaction.

17 In assessing that, members of the jury, don't
18 get lost in this blankets versus bomb quagmire. When
19 you get back there and say, you know, maybe he had an
20 intent to food -- give food to people, blankets to
21 people, or maybe he really did try to buy arms, the
22 point of this is, if you are doing things like this as a
23 charity, the IRS's antennae go way up, as they should
24 be, when you're dealing with cash especially. And if
25 you're going to take the position and say, I did good

1 things with this, I gave this money to refugees,
2 blankets, food, medicine, okay, but tell us about it.

3 That's what you need to do as an exempt
4 organization. You know in that letter that went out to
5 Pete Seda saying you're tax exempt, it said keep good
6 records, and file 990s telling us what you're up to.
7 What did he do? When the IRS comes in years later and
8 subpoenas records for this transaction when we started
9 realizing -- when she started realizing something was up
10 about this Chechnya deal, record requests went out to
11 the lawyers for al-Haramain, formal requests, subpoenas,
12 tell us about the Chechnyan transaction. Records came
13 in over time. Agent Anderson told you that some came
14 from Saudi Arabia sources, al-Haramain, and others came
15 from sources here in the United States, al-Haramain.
16 Different batches, different time, lots of records. Why
17 is that such a big deal? Because you know them by
18 reference now, AHIF-2 and AHIF-3.

19 When we caught them, when we started sniffing
20 around this transaction, did you see receipts saying,
21 refugees, here's the purchase of -- like Mr. Khan's
22 operation, have detailed record keeping records to show
23 if there is a question about them? No. We're not
24 dealing with exempt organization people. Now we're
25 dealing with criminal investigators.

1 What's going on in the defendant's mind now
2 when the jig is up? Two different receipts come in
3 purporting to be -- for the -- representing the same
4 transaction. One says 188. One says 186. They are
5 both bogus, members of the jury, false documents.
6 Signed differently. One's witnessed. One's not. The
7 agreement language is the same.

8 And incidentally that language is not found in
9 the computers. Who typed those? I doubt it was
10 Ms. Florin who knew nothing about the transaction. They
11 are created.

12 And they attempt to come up with a figure,
13 apparently \$36,000 came from Canada. This 150. And if
14 you add it up, 186, yeah, that sounds good, put it in,
15 sign it. Agent Anderson told you that \$36,000 never
16 left the United States. The numbers don't add up.
17 \$186,000 didn't leave.

18 And what about this offset thing that Mr. Wax
19 is telling you about? Obfuscation. What kind of
20 business offsets money for things that apparently
21 happened? Well, I gave you money before, so I owe --
22 you gave me some money before, so I owe you some money.
23 And even though I'm not going to send it overseas, I'm
24 going to give you a receipt saying that you gave it --
25 that I gave it to you. Offset. How about nonsense?

1 The receipts are bogus.

2 We've got two different receipts for the same
3 transaction containing different information. I
4 don't -- I suggest to you, members of the jury, they
5 didn't even realize they gave us two receipts. But
6 Mr. al-But'he and Mr. Seda, you know from those
7 receipts, those are their signatures, they signed those
8 receipts on different occasions, because of the -- where
9 the signatures appear. So they had to know they were
10 signing the same receipt twice. And there were no other
11 big transactions, no other transactions like this.

12 Now, the charges. The judge instructed you
13 this morning on the elements of the crimes that you need
14 to consider before you return verdicts of guilty.

15 Now, that's a formal word, elements of the
16 crime, but think about it like a recipe. Certain
17 ingredients need to go into a recipe to make the product
18 a good one. So think of the ingredients needed to go
19 into a verdict of guilty on the tax count. What are
20 those ingredients, those elements that you need to find?

21 You need to find, one, that there was a false
22 return. We've been over that over and over and over
23 again. The guy who prepared the return said it was
24 false. Wilcox. He didn't know it at the time, based
25 the information on Mr. Sedaghaty's communications, but

1 they told you -- he told you in the various ways that
2 I've already gone over, that the return is false. And
3 incidentally, no mention of Chechnya, so on and so
4 forth. Check, false return.

5 Ingredient number two, signed under the
6 penalties of perjury. The return is signed by
7 Mr. Sedaghaty. And it is signed under penalties of
8 perjury. Check.

9 Ingredient number three, that the false
10 information in the returns have to be material to the
11 IRS. How is the IRS supposed to do its job in
12 monitoring charities if it's never told about a
13 transaction? Bombs, blankets, medicine, not even told
14 that the money went overseas at all. It's not in there.
15 It's absent. The IRS is prevented from doing its job.
16 And if it had been told about the transaction, in
17 whatever form it occurred, they would have done
18 something about it, and it would have been capable of
19 influencing the decisions of the IRS. Check,
20 materiality.

21 And then number four, willfulness. And that is
22 what a lot of this trial has been about. And I told you
23 at the beginning of this trial that that's where the
24 action is at for you. This notion of willfulness.
25 Because we have to prove not only that he signed a false

1 return under the penalties of perjury that contain
2 materially false information, but we have to show you
3 that he had -- that he did these things willfully.
4 Basically that he knew he had an obligation to file the
5 return and was deliberate in -- in doing this falsely,
6 this false return.

7 So how did we prove that during this trial?
8 And I suggest to you that Mr. Wax has done a very
9 passionate job in trying to keep you from focusing on
10 this. But I have to do it because this is part of the
11 motivation that Mr. Sedaghaty had to file this false
12 return.

13 And, incidentally, this is also one of the
14 objects of the conspiracy. There are two charges. The
15 tax count in count 2, the conspiracy count in count 1.
16 And the conspiracy account -- count alleges that he
17 attempted to defraud the United States by depriving the
18 Customs Service of information related to the foreign
19 transportation of money, which I'll talk about, but also
20 to the Internal Revenue Service in doing their job in
21 monitoring tax exempt charities.

22 You only have to find one of those two objects
23 unanimously. We're going to ask you to do it on the
24 verdict form. We're going to ask you to find him guilty
25 of count 1. And then there are two little checkmarks

1 underneath, did you find unanimously that he agreed to
2 defraud the Customs Service? If so, check here for yes.
3 And the IRS. We suggest that the evidence supports
4 checkmarks on both of those.

5 And here is why: The tax motive. Exempt
6 organizations cannot fund mujahideen. Okay? You
7 can't -- or acts of violence and things like that, and
8 we got into this thing about the Red Cross and Taliban
9 and things like that. Tax exempt charities, Mr. Wooten
10 told you, cannot promote acts of violence. If you are
11 buying food for the mujahideen, no. Certainly not
12 armaments.

13 But in any event, tell us what you are doing
14 because if you think you are okay, if you think you are
15 in the proper zone, just tell us about it so we can do
16 our job. Didn't go. Why? Because Mr. Sedaghaty did
17 have a motivation to conceal when he signed that return.
18 What is that? This JC-4 exhibit lists all of these
19 Sheeshaan e-mails and all of the other things in the
20 computers roughly in chronological order.

21 I suggest to you that Mr. Gorder got it just
22 right in telling you that during the time period in
23 question, January to March 2000, Mr. Sedaghaty was
24 fairly obsessed with the events in Chechnya from the
25 lens -- from the lens of the propaganda machine known as

1 al-Haramain, Qoqaz, Azzam, and these guys, like Khattab
2 who are trying to blow people up in Chechnya, and asking
3 people to help fund it, because they have no state
4 sponsorship. They need money. And he says in his
5 interviews, Islamic charities have always been the ones
6 that have stepped up in helping us, but they are gone
7 now. So out goes the cry across the world to the fellow
8 believers that are following things like this and
9 getting things from Mr. Abdul Qaadir Khaliq to take you
10 guys down here in Saudi Arabia, another al-Haramain guy
11 sending out the propaganda stuff from Qoqaz and Azzam,
12 the most preeminent mujahideen Web sites in the globe at
13 the time.

14 MR. MATASAR: Excuse me, Your Honor, I'm going
15 to object as not proper rebuttal argument.

16 THE COURT: Overruled. Please bring it to a
17 close, Mr. Cardani.

18 MR. CARDANI: The willfulness is represented by
19 those e-mails, the fatwas, the prisoner books, the fact
20 that he's raising money at about the same time for the
21 Kosovo mujahideen, the -- after the Hajj with Cabral,
22 direct funding, direct requests by Mr. Sedaghaty
23 himself, doing the work, our Web site, using that
24 Ptichka, his wife. You've got his wife down there in
25 Ashland, Oregon, downstairs, room X, probably, doing

1 translation services for the propaganda machine and
2 Mr. Khattab.

3 This gets so much attention that Khattab from
4 Chechnya thanks them. And Mr. Sedaghaty, we did that
5 trail, calls it our Web site. His wife is doing the
6 services on our Web site, and this big cheese in
7 Chechnya personally thanks him here in Ashland, Oregon.
8 As Mr. Gorder, said this is a charity.

9 A pattern of concealment and lies is also part
10 of defendant's willfulness. In addition to all the lies
11 to Wilcox, not even a mention to Shoumar -- about this
12 fellow Shoumar. He's doing a lot of the things, members
13 of the jury, that Mr. Wilcox is doing, trying to dig
14 into the details of the transaction.

15 And SW-43 is the only e-mail I'm going to
16 specifically read from before I sit down. Mr. Wax tried
17 to deal with this. I submit to you he didn't get it
18 right. The date is September 29, 2001. The
19 significance of the timing, 18 days after September
20 11th, think of the world atmosphere at that point.
21 Terrible, terrible act on our soil. And there was a
22 question of whether radical Islamists were associated
23 with it or not. That's the message around the world.
24 So 18 days after September 11th, Shoumar, who has looked
25 at all the books and records, and finds the Soliman

1 money, the 131 and the 21, our money, says I have
2 tried -- this is to Abu Yunus. This is going directly
3 to the defendant here in Ashland and cc's al-But'he.
4 Talk about a conspiracy. "I have tried during the past
5 two years to my best limited ability to organize the
6 work and make sure that we work together to be precise
7 as much as we can to avoid any possible trails from
8 anybody."

9 Ask yourselves, who are they trying to hide
10 trails from? This is a deliberate effort to conceal
11 that we found in the deleted sections of the defendant's
12 computer.

13 Few more things. The FBI, Agent Boyer goes
14 there four days after September 11th, yes, the
15 Springfield thing was mentioned. The money was
16 mentioned to the FBI, not to the accountant. But ask
17 Agent Boyer, did he give you some literature? Yes, he
18 did. Any of this kind of stuff? No. Noble Qur'an?
19 No. Why? Because the FBI, members of the jury, didn't
20 pass the test. They got the good stuff. They got the
21 smiling, peaceful side of Pete Seda, not the other side.

22 That weird transaction, folks, has been talked
23 about over and over and over, but I'm just going to say
24 this about it: If everything is on the up-and-up, wire
25 the money to Saudi Arabia. Don't -- Pete Seda

1 preordered \$130,000 in traveler's checks. Not 150.
2 130. Why is that? Because there was a plan. There was
3 a conspiracy afoot to move some of this money overseas
4 in a clandestine fashion at some risk. There was a
5 plan. Mr. Seda ordered 130 for a reason.

6 And then the flight across the world. The no
7 CMIR. The fact that at least 73 other people knew about
8 the CMIR filing requirements leaving the country leads
9 one to suggest that people do understand what the form
10 says. For everybody leaving the country or entering the
11 country, you gotta file this form. He's filed it
12 before. He should have done it then. He didn't. Why?
13 Because that was his part of the role of the conspiracy,
14 to conceal this from Customs.

15 So when they are at the bank in Ashland,
16 Oregon, doing it in this screwy way, there was a plan to
17 conceal this from various facets of the government,
18 including Customs, al-But'he's role, and the IRS, Seda's
19 role, Shoumar's role, al-But'he.

20 Mr. Wax takes issue with the records that
21 Colleen Anderson got from Saudi Arabia, the Al Rajhi
22 records. And seems to suggest that if she was
23 successful in getting that one account, she was
24 negligent in not getting others. Members of the jury,
25 you heard her testimony. It took the better part of two

1 years for her to get those records. And she described
2 it as diplomatic and legal back and forth. Two years to
3 get those records. It is not a walk in the park.
4 Extremely difficult. As is tracing money.

5 Members of the jury, I'll leave you with this:
6 All the checkmarks are there for you. The false return,
7 the perjury, the materiality, and the willfulness, the
8 motive, they are all there. When you think about it,
9 all of the ingredients for the recipe of guilt for count
10 2 have been proven, and I ask you to do so.

11 When you get to the conspiracy count, it is
12 much of the same, all of that tax stuff, but in
13 addition, we have to show that there was a plan, a
14 conspiracy. And conspiracies aren't written out.
15 That's not the way criminals act. A secret plan to hide
16 this stuff, acting with all of these guys but to hide
17 it. That has been proved, as has the other part of the
18 conspiracy to hide this from the government.

19 This conspiracy was one to deceive and to
20 cheat, which is part of the instructions that Judge
21 Hogan gave you this morning, that has been proven.

22 Members of the jury, you've been very patient.
23 There's been an awful lot of testimony. And some very
24 good lawyering, I suggest to you, on both sides. We
25 have a great system.

1 It is now in your hands to do your jobs in
2 sifting through the evidence and seeing if the
3 government met its burden of proof. I suggest to you,
4 members of the jury, that we have.

5 If this was all on the up-and-up, if he didn't
6 have this desire to conceal this transaction, to do
7 something that charities can't do in the United States,
8 then he should have been very direct and told it to the
9 world, starting with that Form 990, and everybody else,
10 and not -- it would been -- instead, he concealed it
11 from everybody. And we are here today because an awful
12 lot of good digging went into the investigation, and the
13 records have been produced to you showing that he should
14 be found guilty beyond a reasonable doubt to both count
15 2 and count 1. Thank you.

16 THE COURT: Ladies, would you try to pull the
17 screen back.

18 (Brief pause in the proceedings while equipment
19 is moved.)

20 THE COURT: You've heard the argument and heard
21 the evidence. And in my hand I have the verdict form.
22 And this verdict form has the caption, the name of the
23 case, we, the jury, and so on. Then it says count 1,
24 conspiracy to defraud the United States, and there is a
25 place -- a line by "guilty" and a line by "not guilty."

1 You put your unanimous decision on whichever line it is.
2 If you mark "guilty," and I'm not suggesting you should
3 one way or the other, but if you do, then there are two
4 additional questions. And there is a "yes" and a "no"
5 by each of them. Just circle the one that's your
6 unanimous opinion again. Every decision must be
7 unanimous.

8 And then on count 2, we have a false return by
9 a tax exempt organization. There is a line with
10 "guilty" and "not guilty."

11 Now, when you get to the jury room, select your
12 presiding juror. You can start your deliberations when
13 you receive the verdict form and the indictment and the
14 exhibits. And they'll be in right away.

15 Before we do that, do you have the oath for the
16 bailiff, please.

17 (Ms. Wright and Ms. Weller were sworn as
18 bailiffs.)

19 THE COURT: All right. Thank you very much.

20 Well, at this time Ms. Palanuk and
21 Ms. Jespersen, you've been serving as our -- I'm sorry.
22 I got that wrong. Ms. Mecartea and Mr. Meeuwsen, you've
23 been serving as our alternates. So when you go to the
24 jury room, you should get your things and leave.

25 Now, what I'm going to ask you to do, however,

1 is to not talk to others about your work until you've
2 heard that there is a verdict here. Sometimes we have
3 to invite someone back to deliberations. And that could
4 happen to you, but if I don't see you again,
5 Mr. Meeuwsen, good luck to the Beavers this year.

6 All right. So the others can -- I told you I'd
7 tell you when it's time to start talking about the case,
8 the time has arrived. So you may -- you are excused to
9 the jury room, and good luck in your deliberations.

10 (Jury exits the courtroom at 4:03 p.m.)

11 THE COURT: Counsel, take your exceptions in
12 addition to those you have already done in writing, if
13 you have any?

14 MR. CARDANI: No, Your Honor.

15 MR. WAX: No, I think we've covered it in
16 writing, Your Honor.

17 MR. MATASAR: And orally at the conference.

18 THE COURT: Thank you very much. Once in a
19 while, my bride tells me that maybe we shouldn't go to
20 that particular party because you don't have good
21 termination skills. And I'm going to be happy to report
22 to her that at least two more fall in that category.

23 So that's great. Thank you for your work.

24 You can look at the exhibits, if you want.

25 They've been put together already. And we need a phone

1 number for a 15-minute call. Okay. Thank you.

2 (Court stood in recess, subject to call, from
3 4:03 until 8:45 p.m. when the jurors were released until
4 9:00 a.m. on Thursday, September 9, 2010.)

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1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter
3 for the State of Oregon, do hereby certify that I was
4 present at and reported in machine shorthand the oral
5 proceedings had in the above-entitled matter. I hereby
6 certify that the foregoing is a true and correct
7 transcript, to the best of my skill and ability, dated
8 this 15th day of September, 2010.

9
10
11
12 /s/ Deborah Wilhelm

13 _____
14 Deborah Wilhelm, RPR
15 Certified Shorthand Reporter
16 Certificate No. 00-0363
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